

<b>Health and Safety Executive</b>		<b>Operational Circular</b>	
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To  
 FOD AFQ Inspectors (Bands 0-4)  
 Specialist Group Inspectors (Occ Hyg) (Bands 0-3)  
 Specialist Group Medical and Occ Health Inspectors  
 Railway Inspectors (Bands 0-3)  
 NSD Inspectors (Bands 2-3)  
 All HID Staff

## **PROVISION OF OCCUPATIONAL HEALTH SERVICES TO EMPLOYERS**

This OC describes the legislation, the scope and range of occupational health assistance available, the various means of assessing competence and the actions to be considered by field inspectors.

### **INTRODUCTION**

1 Employers may require the services of occupational health providers in a number of situations, such as statutory medical surveillance, assessment of health risks and management of residual risk by, for example, health surveillance, biological monitoring etc. In addition, doctors or nurses may be asked to give opinions about the fitness of individuals for work. In situations where such work is 'safety critical', or where incapacitating illness may pose a significant risk to employees or others, then such health advice would be central to the proper assessment and control of those risks.

### **LEGISLATION**

2 The primary legislation is Health and Safety at Work etc Act 1974 and various codes of regulations have since introduced requirements for statutory medical surveillance of those involved in commercial diving or who are exposed to asbestos, compressed air, chemicals listed in the Control of Substances Hazardous to Health Regulations 1999 schedule 6, ionising radiations and lead.

3 Although EMAS has sought to ensure consistency of appointed doctors, and encourage appropriate training, the concept of 'competence' was not explicitly introduced into the relevant statutory provisions until the appearance of the Management of Health and Safety at Work Regulations in 1992.

4 The Management of Health and Safety at Work Regulations 1999 (MHSW Regulations) reg.7 deals with health and safety assistance, requiring employers to appoint competent persons to assist in complying with statutory duties.

### **SCOPE OF OCCUPATIONAL HEALTH ASSISTANCE**

5 There are 4 commonly encountered aspects of occupational health provision which may be of particular interest to inspectors:

- (1) risk assessment;
- (2) pre-placement fitness screening;
- (3) health surveillance; and
- (4) investigation of ill health.

There are also other areas of work, including pre-employment assessment and ill health retirement where there are important issues such as the Disability Discrimination Act, but those aspects are not covered in this OC.

## OCCUPATIONAL HEALTH PROVISION

6 There are increasing demands on employers to consider occupational health, not only to deal with the effects of workplace exposures on health but also the effects of health on capacity to do work safely, ie safety critical work; 'human factors'.

7 At the same time, there is evidence that the population is ageing and that the proportion of those in work over the age of 50 is rising steadily. Thus, employers increasingly need to take cognisance of naturally occurring illness and disability and to resolve potential conflict between anti-discrimination legislation and safety implications in the workplace.

8 Because of the increasing complexity of health issues in the workplace, it is essential that employers obtain competent advice and assistance, as required in the MHSW Regulations. Inspectors will also need to consider the definition of 'competent' and how this might relate to the employers particular needs and situation. Employers should be able to demonstrate the steps that they have taken to ensure that those who provide occupational health support are competent to do so.

## ASSESSING COMPETENCE

9 Although MHSW Regulations require competent assistance, they do not define exactly what this means. Various lead bodies have attempted to elaborate on this, but they have obviously found it a complex and difficult issue.

10 It is not HSE's role to police clinical competence or judgement but there are times when inspectors may need to enquire into the matter, as they might when considering the thorough examination of pressure systems, periodic inspection of scaffolding etc.

11 Issues such as competence, constraints on practise, boundaries of responsibility etc are controlled by governances produced by statutory bodies, eg the General Medical Council and the United Kingdom Central Council for Nurses, Midwives and Health Visitors. Many aspects are also further elaborated by professional bodies such as the Medical Royal Colleges and Faculties, the British Medical Association and the Royal College of Nursing.

12 As far as occupational health practice is concerned, there is no single factor that guarantees competence. Qualifications such as possession of the Associateship or Membership of the Faculty of Occupational Medicine (AFOM or MFOM) require a considerable period of training and experience but these may be considered as equivalent to best practise, rather than minimum enforceable standards. In some ways, the situation with nurses is easier than with doctors, as those who call themselves 'occupational health nurses' will generally hold either the diploma or certificate in occupational health nursing, or

a degree in that specialism. In any situation, however, the inspector should consider the following points:

- (1) what are the qualifications of the doctor or nurse?
- (2) is he or she based in the workplace? If not, is the workplace visited regularly?
- (3) what experience does the doctor or nurse have of occupational health?
- (4) does it look as if they have things organised properly, ie medical facilities, record keeping etc?
- (5) what about contractual issues relevant to maintaining competence, ie training, provision of information by the employer, continuing medical education etc? and
- (6) how exactly did the employer secure the services of the doctor or nurse?

13 Many doctors who are working part-time in industry now hold the Diploma in Occupational Medicine. Whilst that does not in itself guarantee competence, it is a reasonable basic qualification and it does indicate commitment on the part of that doctor to get themselves properly trained. Courses are widely available and there is a distance learning package, so doctors can study at home in their spare time. Therefore, it is reasonably practicable for those aspiring to work in occupational medicine to obtain the Diploma and this is the minimum standard that HSE should be working towards.

#### ACTION BY INSPECTORS

14 The employer should use the Good Health is Good Business '4 Questions' model and the check list (see [Appendix 1](#)). The employer should have assessed the existence of any occupational health problem, the size, necessary control measures, health surveillance if there is still a residual risk, monitoring and assessment of control (see [Appendices 2](#) and [3](#)).

15 If there are clearly significant health problems and occupational health advice has not been sought then inspectors should consider issuing an improvement notice. If there are doubts about the competence of any doctor or nurse who is providing support, EMAS should be consulted.

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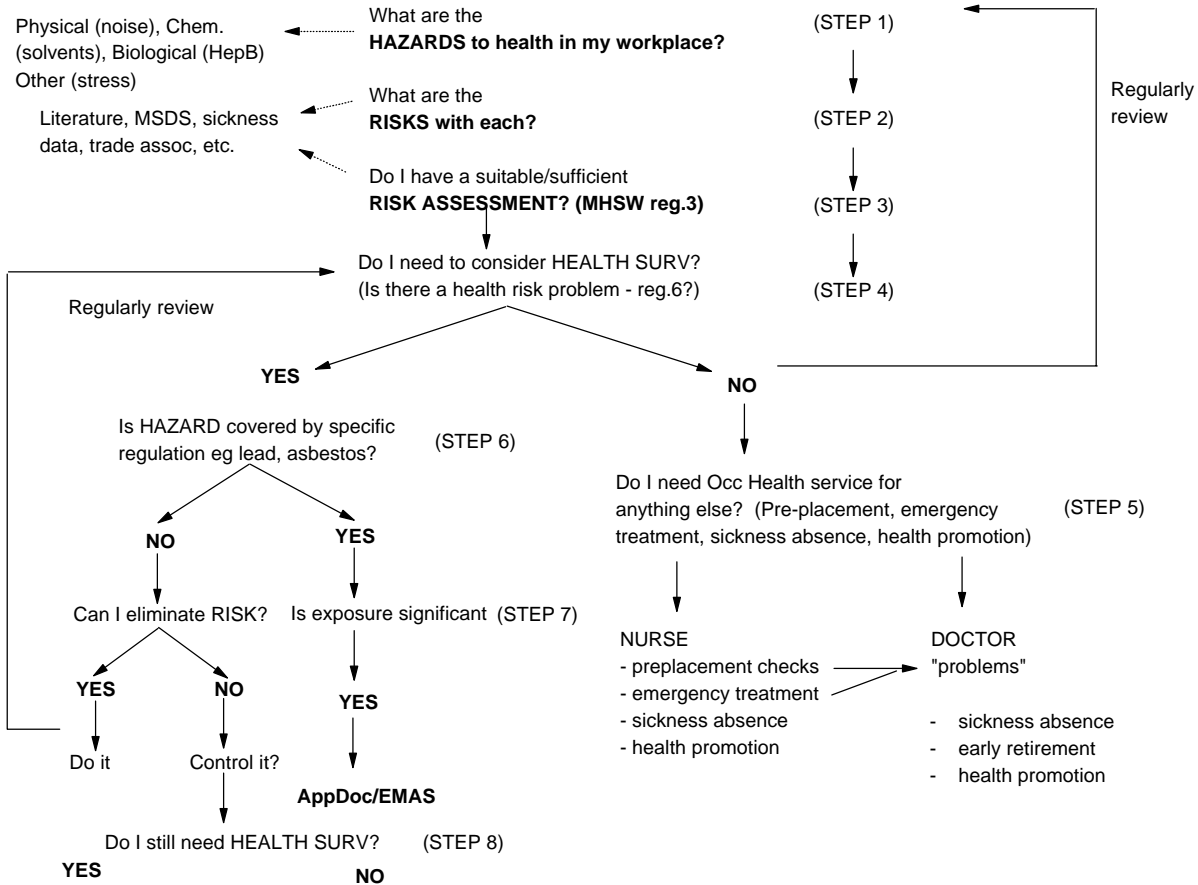
#### APPENDIX 1 (para 14)

#### EMPLOYERS' CHECKLIST- 4 STAGE APPROACH

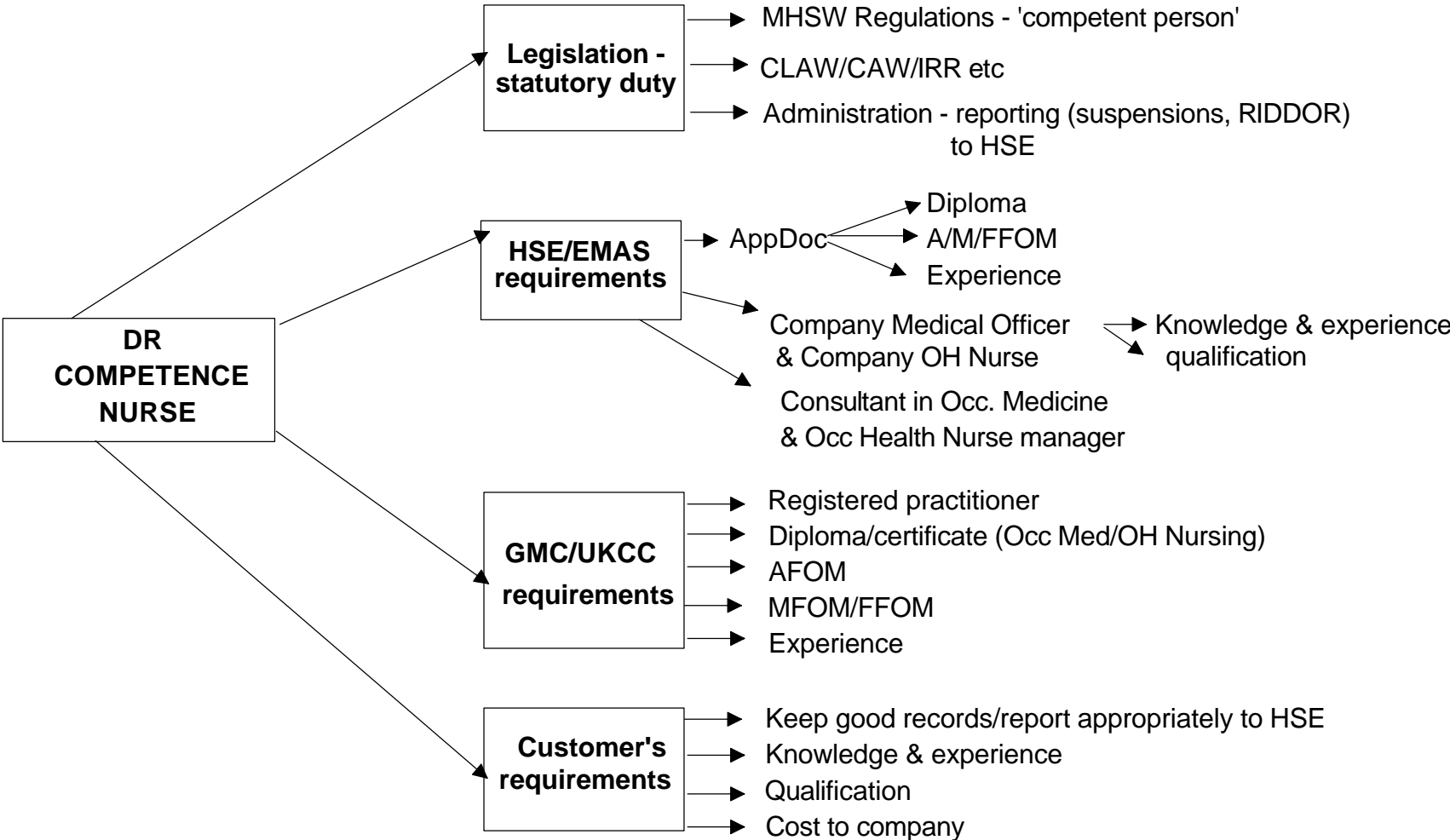
1. Do I have a health risk problem, or a need for occupational health input, in my workplace?

2. What/who do I need to control/provide it (a doctor or nurse)?
  3. Take that action.
  4. Is it working (check on what's been done)?
- 





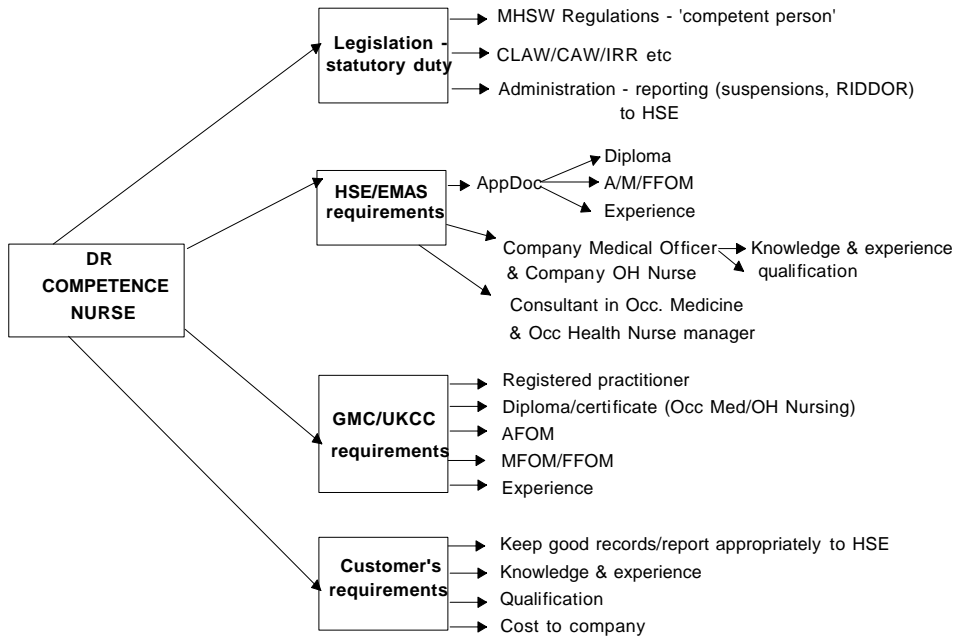
# COMPETENCE OF DOCTORS & NURSES INVOLVED IN OCC HEALTH - who requires what?



**DR COMPETENCE NURSE**

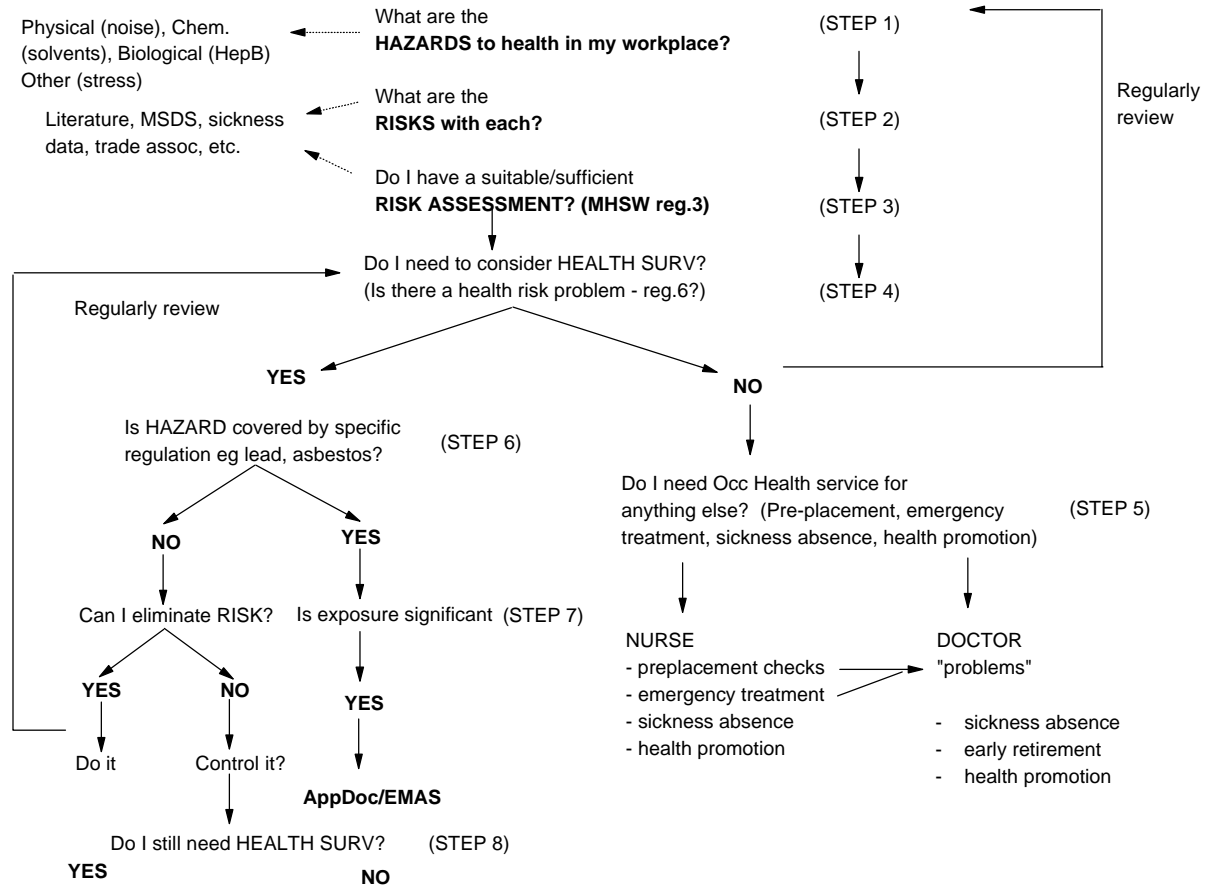
- Legislation - statutory duty**
  - MHSW Regulations - 'competent person'
  - CLAW/CAW/IRR etc
  - Administration - reporting (suspensions, RIDDOR) to HSE
- HSE/EMAS requirements**
  - AppDoc
    - Diploma
    - A/M/FFOM
    - Experience
  - Company Medical Officer & Company OH Nurse
    - Knowledge & experience qualification
  - Consultant in Occ. Medicine & Occ Health Nurse manager
- GMC/UKCC requirements**
  - Registered practitioner
  - Diploma/certificate (Occ Med/OH Nursing)
  - AFOM
  - MFOM/FFOM
  - Experience
- Customer's requirements**
  - Keep good records/report appropriately to HSE
  - Knowledge & experience
  - Qualification
  - Cost to company

**COMPETENCE OF DOCTORS & NURSES INVOLVED IN OCC HEALTH - who requires what?**

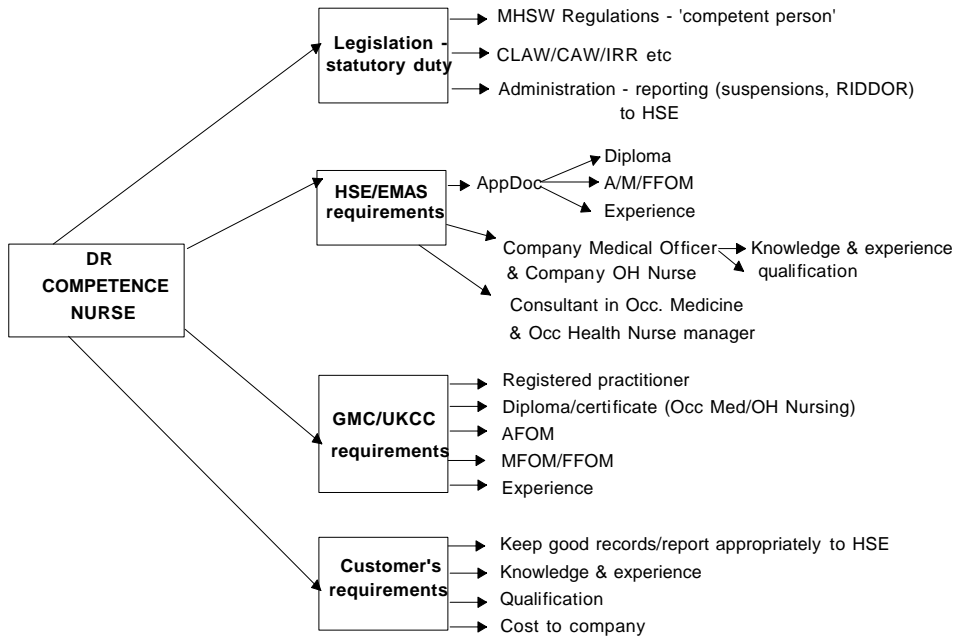


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APPENDIX 2  
(para 14)



**COMPETENCE OF DOCTORS & NURSES INVOLVED IN OCC HEALTH - who requires what?**



### COMPETENCE OF DOCTORS & NURSES INVOLVED IN OCC HEALTH - who requires what?

