Working together for better workplace health

SAFETY CRITICAL WORKERS
Safety Critical Workers in the construction industry

Organisations have a duty under the Health and Safety at Work Act (1974) (HSAWA) to ensure a safe system of work. It is implicit in this duty that the medical fitness of employees is a component of such a safe system of work, to the extent that the effects of a medical condition are foreseeable. Not only do employers have duties towards their employees but under Section 3 of the HSAWA employers also have a duty to ensure that the safety of third parties is not compromised. In the current context, therefore, the employer needs to take into account the individual employee’s fitness both in respect of those activities where an employee’s fitness may be likely to affect their own health and safety and those where it may affect others’ health and safety.

In some activities the consequences of adverse events may be serious and the term “Safety Critical Work” has been used. Safety critical work (or roles) were defined in the Faculty of Occupational Medicine’s “Guidance on alcohol and drug misuse in the workplace” 2006 as “those involving activities where, because of risks to the individuals concerned or to others, the employees need to have full, unimpaired control of their physical and/or mental capabilities…”.

A Safety Critical Worker (SCW) within the Industry Standard is defined as:
“Where the ill health of an individual may compromise their ability to undertake a task defined as safety critical, thereby posing a significant risk to the health and safety of others”

A suitable risk assessment of any activity should identify whether it has a safety critical nature and whether in the event of worker incapacity this would be likely to result in a significant risk of harm to the individual worker performing the task or to others i.e. third parties.

In construction the following have been defined as ‘safety critical’:

- All mobile plant operators
- Hi-speed road workers
- Rail trackside workers
- Asbestos licensed workers
- Tunnellers, or those working in a confined space
- Tasks carried out at height where collective preventative measures to control risk are not practicable
- Others as identified by the risk assessment process

Whilst the use of professional judgment would help to ensure that an individual is fit to perform a task effectively and without risk to their own or others health and safety in broad terms, although there are general duties of care under the HSAWA, it is likely that only those exposed to safety critical work would need be subjected to a full medical assessment.

What is the Health Assessment for a Safety Critical Worker?
It is a medical assessment of an individual’s ‘fitness for task’ against defined criteria and the use of professional judgment to ensure that an individual is fit to perform a task effectively and without risk to their own or others health and safety.

The medical fitness standards for the rail industry (Railtrack PLC 2000) specify general health requirements, which may be broadly applicable to safety critical work in the construction industry:

“Candidates shall not be suffering from medical conditions, or be taking medical treatment likely to cause:

- sudden loss of consciousness;
- impairment of awareness or concentration;
- sudden incapacity;
- impairment of balance or co-ordination;
- significant limitation of mobility.”

The requirement for assessment of fitness for safety critical work should only be applied where it is necessary and not used as a form of medical selection and potential disability discrimination. Where an activity is safety critical and an essential job requirement, it may be reasonable not to employ an individual even if the Equality Act was likely to apply, if there was risk of harm to third parties.

**Purpose of the health assessment**
To identify any possible medical conditions that may potentially have an adverse affect leading to the safety of the individual or that of others being jeopardised, allowing therefore for that individual to be restricted to non SCW hence removing that risk.

Failure to meet the medical standards will require a review with an occupational physician and an operational risk assessment before being permitted to continue to work in safety critical roles. Workers should be temporarily restricted from working in a safety critical role whilst undergoing further investigation and testing, dependant on symptoms and clinical opinion.

**Relevant Regulations LINK**
This list is not exhaustive:
The Health and Safety at Work etc Act 1974
The Management of Health and Safety at Work Regulations 1999 (as amended)
Equality Act 2010
The Data Protection Act 1998
Access to Medical Reports Act 1998
The Control of Asbestos Regulations 2012
Control of Lead at Work Regulations (CLAW) 2002
**Advice to Employee**

The individual should be informed of the need to notify their manager of any changes to their health.

Any relevant health education, including on the use of PPE, should be given, as well as the outcome of the health assessment.

**Advice to Employer**

Subject to the arrangement between the OHSP and the employer, a fitness for task certificate should be supplied; this should not include any clinical information, just the fitness of the individual for the proposed work and whether any restrictions or adjustments are recommended.

**Reports**

Conclusions should be expressed in terms of the employee’s fitness for task and will include the conclusions of the occupational health professional, but NOT “confidential clinical data.”

**Expert help is available from:**

Constructing Better Health

Contact us for impartial and confidential advice:

**tel: 0845 873 7726** or click on [www.cbhscheme.com](http://www.cbhscheme.com)

CBH accredited occupational health service providers listed on the CBH website

Further information regarding preventative measures can be found on the HSE website in the Construction Occupational Health Management Essentials toolkit (COHME).

[www.hse.gov.uk](http://www.hse.gov.uk)