



The
Property
Institute

ADVICE NOTE

EMPLOYING CONTRACTORS

How to go about employing competent contractors



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NOTE

As the leading trade body for residential leasehold management, TPI is also an important resource for leaseholders. Our Advice Notes cover a range of topics on the leasehold system to help leaseholders understand their rights and responsibilities and ultimately get the most out of living in their flat.

SUMMARY

All landlords, Residents' Management Companies (RMCs) and Right To Manage Companies (RTMs) have a responsibility to appoint competent contractors to carry out work and services to their building.

The work needs to be properly managed, not just 'outsourced'. The Health and Safety Executive (HSE) stresses that using contractors is a joint responsibility — health and safety duties can't be just delegated to a contractor.

In this Advice Note, we'll look at how important it is to assess the competence of a contractor before engaging their services.

Vetting contractors

All landlords, RMCs and RTMs should have criteria for vetting contractors before employing them. The basic criteria should include checking:

- Their identity
- Their financial position
- Their competency
- Whether they have the correct insurance — public liability and professional indemnity cover when using consultants
- Their VAT status
- Their health and safety policy and procedures
- References from existing and previous clients (ideally at least two) or reviews of projects completed on other developments.

Checking identity

The easiest way to check the identity of a contractor is to obtain a copy of their certificate of incorporation as a company, and then check Companies House to make sure they haven't been struck off. For sole traders, ask to see personal ID such as a passport or driving license. Make sure you see the original documents, not just photocopies.

Financial position

Asking to see a copy of the contractor's accounts or a bank reference will be a good reassurance. Avoid the risk of giving a large value contract to a small contractor, which will overstretch their resources.

Competency

It's essential to check the competency of a contractor and this will depend on the work to be done. To determine a contractor's health and safety competency you will need to consider some or all of the following:

- The experience they have in the type of work you want done
- The qualifications and skills they have, relevant to the work you want done
- Their selection procedure if they sub-contract any work
- Whether they are a member of a trade association
- What health and safety training their staff have
- Request to see a copy of their health and safety policy statement and any procedures relevant to the work

- Request to see an example of a safety method statement or risk assessment for the work and their accident reporting procedure
- Ask if they have been issued with any enforcement notices by the HSE.

There are a number of ways of checking competency. For specialist trades there will be professional organisations such as Gas Safe Register and the Institute of Plumbing and Heating Engineers. For general builders it's much harder to assess. One helpful thing to look out for is the Construction Skills Certification Scheme. It records the assessed competencies of workers in the construction industry and has over 500,000 registered operatives. Take a look at <https://www.cscs.uk.com/>

Health and safety policy

All contractors who employ more than five employees should have a written health and safety policy, which you should ask to see. Sole traders are not required to have a written policy so if you're using one, then you need to consider the implications if things go wrong. Landlords are responsible for making sure that contractors follow the necessary health and safety procedures. So they need to set out, or get the sole trader to put in writing, what health and safety procedures they will follow if they're given the contract.

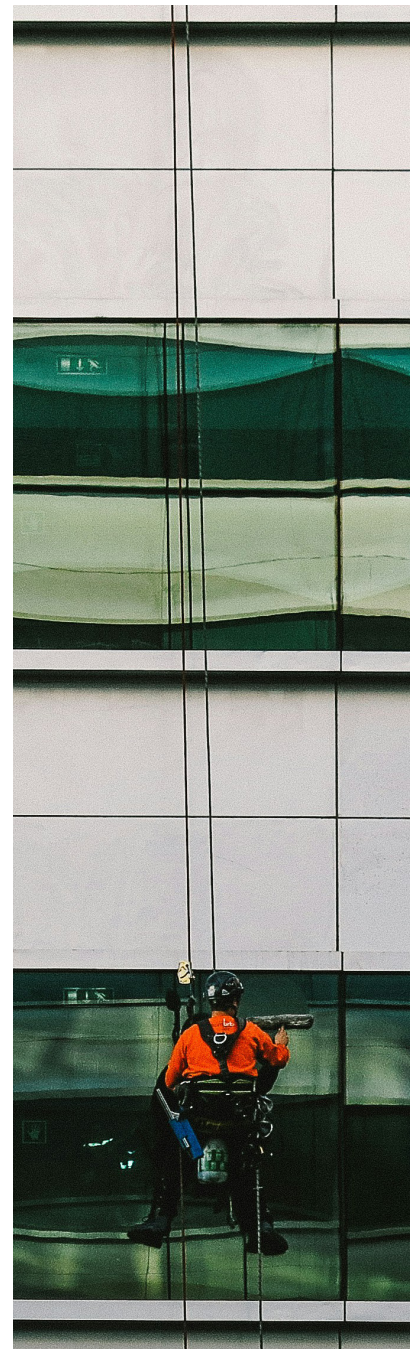
VAT

The VAT status should also be checked because if a contractor is operating outside of VAT illegally, you could be accused of collusion.

Insurance

You should find out what insurance cover the contractor holds and get copies of their current policies. As a minimum you will want to see evidence of public liability and employer's liability cover if the contractor has staff.

You should also check that the insurance held by the contractor is suitable for the work you want to have done. If necessary, seek advice from your broker or insurer or assess the risks from the type of work to be carried out. The absolute minimum public liability cover is £1m, which may still be appropriate for the simplest of jobs.



Safety method statement (SMS)

An SMS is a risk assessment that sets out an agreed method for doing work safely — all contractors should be asked to provide one before they start. It needs to outline the job, any significant risks, the people that might be put at risk and a set of agreed control measures to manage the work safely from start to finish. The size of the job will normally dictate the complexity of the SMS.

Check the SMS to ensure it's relevant to the work to be commissioned and discuss any concerns with the contractor.

Instructing contractors

You should ask to see the contractor's risk assessment and method statement for any planned work. This will reassure you that they are proposing to carry out the work in a safe manner for their employees and the residents.

Landlords have a responsibility to make sure contractors are not at risk when working on the premises; contractors have a duty to not put the premises, residents and the public at risk from their work.

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employees and the residents.

When you're issuing instructions about the work to be done, it's worth setting out a few expectations. Consider defining the areas the contractor can go into; their hours of work; the possible noise and nuisance to residents; and rules for staff and visitors. Make sure the contractor is aware of the health and safety risk assessment for the development, and the fire safety and accident reporting procedure. You could always get them to sign the 'site rules' as part of their contract to reduce the risks if things go wrong.

It's also worth giving some thought to protection and access to the development bearing in mind that, unless they're well supervised, builders may be pretty haphazard. Somewhere might be needed to store waste materials, building equipment and to put up a site office.

It's important to have a solid contract in place in case there's a dispute later on. If it's more than routine maintenance or minor work, and on a scale that needed to be consulted on, think about using a JCT contract or at least one with terms that will assist both parties in the event of a fallout.

CDM regulations

All landlords have a responsibility under the Construction (Design and Management) Regulations (known as CDM) to inform contractors of any possible risks when working at a development. The risks may include things like:

- Hazardous materials
- Electrical equipment
- Any structural loading restrictions
- Areas not to be accessed e.g. lift motor rooms or boiler rooms
- Restrictions on using certain types of access equipment
- Hidden ducts
- Asbestos (an appropriate notice must be issued if asbestos is

known to be present in any area where the contractor will have access to)

- Other hazards e.g. boarded over skylights, buried cables etc.

The regulations apply to all types of work, not just major contracts.

Keep residents informed

Make sure you tell all residents when and where contractors will be working — especially if they could be affected by the work or the noise. You should advise them of the actions that are being taken to control or reduce the risk to them and what actions, if any, they will need to take. Make sure you monitor the contractor to ensure they comply with their method statements and record that you have done so.

Beyond the cheapest price

It can be a mistake to just go with the cheapest bidder without doing an analysis report. You should always check to see if the price they quote is realistic and achievable for the work that needs to be done. Some contractors will put in 'suicide bids' just to get work.

A contractor who puts in a lot of provisional sums can be unreliable too because they often expect to make a lot more profit that way rather than adjusting the original quotation.

Final word

If you're about to employ a contractor to carry out work to your block, make sure you do the relevant checks before you appoint them. It's not only important that they're competent and capable of carrying out the work, but they need to have the correct insurance cover in place. And it's not just a case of letting them get on with the work — if you're a landlord, RMC or RTM director, you are responsible for making sure the work is carried out safely.

Further information

There are several organisations that vet contractors and have quality assurance schemes. Some are specialist trade associations with codes of practice. Others are government or commercial schemes. Here are some of the main ones:

- The Safety Schemes In Procurement (SSIP) Forum:
 - SSIP acts as an umbrella organisation to facilitate mutual recognition between health and safety pre-qualification schemes wherever it is practicable to do so.
 - The organisation actively advises and influences clients about acceptable interpretation and appropriateness of health and safety competence standards in UK schemes. It embraces the core guidance on competence and training in the Approved Code of Practice (ACoP) of the Construction (Design and Management) Regulations 2007.
 - Visit SSIP at: www.ssip.org.uk
- NICEIC is the voluntary regulation body for the electrical contracting industry. It approves the competence of electricians and assesses them annually: www.niceic.com
- GAS SAFE REGISTER is the official list of gas engineers who are qualified to work safely and legally on gas appliances and fittings. Visit: www.gassaferegister.co.uk

- TRUSTMARK is a Government supported scheme to help the public find trustworthy trades people. Firms are checked for their financial position and health and safety record, and have to operate to a code of practice. Visit: www.trustmark.org.uk for a list of trades including painters, plumbers and general builders.
- Constructionline is run by the Department for Business Innovation & Skills and is a service to vet contractors for their financial standing so that they don't repeatedly have to fill in pre-qualification forms. Over 50% of the contractors have a turnover of less than £1m. It's free to those who want to search its database for contractors but you do have to register your details first. Visit: www.constructionline.co.uk.

Note:

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