

STRATEGIC FORUM  
FOR CONSTRUCTION

PLANT SAFETY  
GROUP

GOOD PRACTICE GUIDE

# Medical Fitness to Operate Construction Plant



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# Medical Fitness to Operate Construction Plant

## Strategic Forum for Construction Good Practice Guide



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## Foreword

The operators of construction plant play a vital part in the construction process and it is essential that they are physically and mentally capable of undertaking the tasks they are required to carry out. Construction plant has the potential to injure or kill both operators and bystanders if it is operated, installed or maintained by people who are not medically fit to do so. Employers have a duty to ensure that their employees have the required level of fitness for their job and this guidance is aimed at providing employers and others with the tools to do this.

This guidance has been prepared by the industry to provide clarity about the medical fitness assessment process and outlines the steps that should be taken by employers and others in the construction sector such as Principal, main and sub-contractors, who also have an interest in ensuring that plant operators have an appropriate level of fitness. In particular it deals with planning, setting up and implementation of medical fitness assessment systems, the medical fitness aspects of recruitment and managing those employees who may develop health problems whilst at work.

The advice in this document is straightforward, comprehensive and easy to adopt. It represents good practice which may go further than the minimum you need to do in order to comply with the law.

I thank those who have been involved in its preparation and commend the guidance to anyone who employs people who operate install or maintain construction plant and those with an interest in such matters.

Please read the publication and turn the advice into action.



### **Philip White**

HM Chief Inspector of Construction

Chair of the Health and Safety Executive's Construction Industry Advisory Committee (CONIAC).

## Executive Summary

People who operate plant have the potential to injure both themselves and other people in the workplace and the surrounding area. Ensuring that construction plant operators are medically fit to operate is primarily an issue for their employers, who have a duty to ensure that any employee is physically and mentally capable of undertaking the tasks they are required to carry out. Others in the construction sector, such as Principal, main and sub-contractors, will also have an interest in ensuring that plant operators have an appropriate level of fitness.

This document provides a step-by-step guide for managers who want to plan, set-up and implement a system to assess the fitness of their construction plant operators. It covers the legislation supporting such a system, including the Data Protection and Equality Acts. The fitness assessment process is described - from identifying individual job characteristics, which enables fitness assessments to be focused and relevant, through the initial base line assessment, annual questionnaires and periodic reviews. Maximum timescales for periodic reviews are also given, as well as guidance on managing those workers who may develop health problems whilst at work. To assist with managing and recording the process, examples of forms are provided in the Annexes.

An essential part of the process is the choosing of an Occupational Health Service Provider (OHSP), and guidance is given to help those new to this task. In addition the medical assessment criteria and standards which are relevant to operating mobile plant, are set out. The aim being to promote consistency across this sector of industry and between OHSPs.

Particular emphasis is placed on the medical fitness aspects of recruitment and the need to be fair and objective at every stage to avoid discrimination, even inadvertently, and ensure that the requirements of the Equality Act are observed.

The assessment of medical fitness to operate mobile plant will have a significant positive impact on the relationship between an employer and their employees and guidance on consultation and involvement of employees in the process is given.

All the guidance in this document is aimed at managers of both large and small organizations and provides information to relevant resources for those without access to a Human Resources department.

### Case Study

An employee worked as a construction plant operator on dumpers and forklift trucks for six years without any problems. The operator's employer then implemented a company policy to ensure that all operators' medical fitness to operate plant was regularly assessed. During the assessment it was discovered that the operator was being treated for epilepsy, though he had not been asked to declare this in the past. His condition and treatment were investigated by the Occupational Health Service Provider to confirm adequate control and lack of fits. After a management review of the process, including a full risk assessment on advice from the OHSP and discussion with the employee, he was assessed as being fit to continue, subject to continuing to take the medication prescribed.

In addition, an increased monitoring regime was specified by the OHSP. This was agreed with the employee and carried out by the management.

## 1.0 Introduction and Scope

People who operate plant have the potential to injure both themselves and other people in the workplace and the surrounding area, if they become ill whilst at the controls or have health related issues which impair their ability to control an item of plant safely. Employers have a duty to ensure that any employee operating plant is physically and mentally capable of undertaking the tasks they are required to carry out. The discharge of these duties will require consultation with specialists.

Employees have a duty to inform their employer of any changes in health or fitness that may affect their ability to perform their duties safely.

Principal Contractors have a duty to satisfy themselves that the contractors they engage are competent and adequately resourced. As part of this they should establish that the people employed by the contractors are physically and mentally capable of undertaking the tasks they are required to carry out. It does not mean that the Principal Contractor should undertake assessments of medical fitness but should ensure that their contractors take adequate steps to ensure that their employees are fit.

The aim of this Good Practice Guide is to provide guidance to those involved in the use of plant in construction. These include:-

- Employers of people operating plant;
- Principal Contractors;
- Specialist contractors;
- Plant managers;
- Project managers;
- Contractors, site managers and supervisors;
- Anyone else such as employment agencies or self employed operators.

Although the guidance deals primarily with operators of construction plant, it can apply to other personnel involved with the installation, erection, dismantling and maintenance of plant.

The Good Practice Guide covers the management of these issues including:-

- Legal duties;
- Steps necessary to introduce, maintain and manage medical fitness;
- Selection of an Occupational Health Service Provider;
- Working with the Occupational Health Service Provider;
- Consultation with employees;
- Relevant employment law issues;
- Assessment process, including frequency and liaison between the employer, the Principal Contractor and other contractors on site.

The Good Practice Guide does not address the prevention and control of risks to health created by the work environment. These issues, which are part of an employer's duties, are covered by other guidance (See **Annex I and Annex J**).

This guidance does not cover issues around misuse of drugs and alcohol, including drugs and alcohol policies and screening. Guidance is available elsewhere (See **Annex J**).

Statistics indicate that significantly more people die at work in construction from health related issues than die from accidents at work; consequently there are significant benefits from monitoring the health of the workforce. The guidance given in this document does not specifically address these issues, but may well be of assistance in developing such an approach.

Where local standards are more onerous than those set out in this document, they take precedence.

## **2.0 Definitions of terms applying to this document**

### **2.1 *medical fitness***

being physically and mentally capable of undertaking the tasks that an individual is required to carry out

**NOTE:** *Medical fitness does not include assessment of an individual's competence*

### **2.2 *clinical medical records***

includes confidential medical information on an individual held by a health professional

### **2.3 *construction plant***

construction machinery which is controlled by an operator at all times when in use

### **2.4 *construction plant operator***

person controlling an item of construction plant

### **2.5 *disabled person***

a person with a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities

- "Normal day-to-day" means things that people do on a regular or daily basis, such as reading, writing, using the telephone, having a conversation and travelling by public transport
- "Long-term" usually means the impairment should have lasted or be expected to last at least a year
- "Substantial" means not minor or trivial

**NOTE:** *this definition is given in the "Equality Act 2010 - Guidance for employers" published by the Equality and Human Rights Commission*

### **2.6 *fitness for work (task) assessments***

specific checks to assess whether an individual is fit to undertake the work they will be doing without unacceptable risk to themselves or to others

### **2.7 *functional assessment***

a health professional's specific assessment of a worker's physical and mental condition and its impact or influence on their ability to operate mobile plant. Four possible outcomes are (1) fit, (2) temporarily unfit, (3) fit subject to restrictions and (4) unfit

### **2.8 *health assessment***

assessment involving a range of techniques used to determine a worker's health status at the time of assessment and to give indications about future fitness

### **2.9 *health monitoring***

generic term covering the full range of techniques, statutory and non-statutory, to monitor the health of individuals during their employment

## **2.10 health risk assessment**

assessment involving a range of techniques used to determine the hazards a worker is likely to be exposed to at work and the effect on their health

## **2.11 health information**

### **2.11.1 partially restricted information**

information regarding a person's health which may be accessed by an employer such as a fitness to work certificate provided to an employee's manager or HR department (**see Annex E**)

### **2.11.2 fully restricted information**

information regarding a person's health which may only be accessed by a health professional

## **2.12 health surveillance**

a statutory process involving a range of techniques used to detect early signs of work-related ill health among workers exposed to certain health risks; and subsequently acting on the results

## **2.13 occupational health**

the effect of work on employees' health and the health of others

## **2.14 occupational health advisor (OHA)**

a registered nurse having a recognised occupational health qualification

## **2.15 occupational health service provider (OHSP)**

an organisation or qualified individual engaged to deliver occupational health services

## **2.16 occupational health technicians (OHT)**

a person providing technical components of occupational health services working under professional supervision to established protocols and procedures

## **2.17 occupational physician (OP)**

a Doctor qualified in the specialised field of occupational medicine

**NOTE:** These are sometimes referred to as Occupational Health Physicians (OHP)

## **2.18 operational assessment**

a further assessment which takes place when a functional assessment indicates there is a requirement. It takes place in controlled or test conditions by an assessor(s) who has (1) knowledge of operating mobile plant and (2) health and safety. It aims to ensure a worker can demonstrate reliable and safe working of mobile plant and records outcomes of (1) satisfactory, (2) unsatisfactory or (3) satisfactory with restrictions.

## **2.19 signs of disease**

objective evidence of ill health (i.e. what a doctor or nurse might find on examination) (See also **symptoms**)



**2.20 *statutory health records***

historical records providing information about an individual's job, involving exposure to substances or processes requiring health surveillance and, where relevant, the conclusions of the person undertaking health surveillance. They may be kept securely with other confidential personnel records, but must not contain medical in confidence data

**2.21 *stress (work related)***

the adverse reaction people have to excessive pressures or other types of demand placed on them at work

**2.22 *symptoms of disease***

subjective indicators of ill health (i.e. what the sufferer experiences, for example a cough or shortness of breath) (See also **2.19 *signs of disease***)

### 3.0 Legislative Requirements

The Health and Safety at Work etc Act (HSWA) places a duty on employers to ensure the health and safety of their employees and others who may be affected by their work activities. This duty includes ensuring that employees and others are physically and mentally capable of undertaking the tasks they are required to carry out. Regulations made under the HSWA, including the Management of Health and Safety at Work Regulations 1999 and the Constructions (Design and Management) Regulations 2007, place specific requirements on employers for risk assessment and assessment of competence.

Other legislation with an impact on the assessment of physical and mental capability are the Equality Act 2010, the Data Protection Act 2018 and the Access to Medical Reports Act 1988. Further details of the Acts and Regulations are given in **Annex H**.

## 4.0 Data Protection

If employers collect or use information about their employee's, the Data Protection Act 2018, which incorporates the European General Data Protection Regulation 2016 (GDPR), will apply. The Act replaces the Data Protection Act 1998 and marks a significant change in data protection obligations for employers in the UK, affecting, for example, how they handle sensitive information about employee's physical or mental health, such as in the context of managing occupational health.

The Information Commissioner's Office (ICO) will be able to impose substantial fines of up to £1.8 million, or 4 per cent of annual worldwide turnover, for the most serious breaches of the GDPR – meaning compliance is of high importance. To process employees' personal data, employers must comply with the six 'data protection principles'. Personal data must be:

- Processed lawfully, fairly and in a transparent manner;
- Collected only for specified, explicit and legitimate purposes;
- Adequate, relevant and limited to what is necessary for the purpose for which it is collected;
- Accurate and kept up to date;
- Kept for no longer than is necessary; and
- Kept securely.

There is a further overarching 'accountability principle' that requires employers to demonstrate their compliance with the six data protection principles.

For personal data to be processed lawfully, you must establish at least one lawful basis for the processing. Those that are relevant in an employment context include:

- Consent: the employee has given clear consent for the employer to process their personal data for a specific purpose;
- Contract: the processing is necessary for the employer to comply with their contractual obligations to the employee;
- Legal obligation: the processing is necessary for the employer to comply with their legal obligations;
- Legitimate interest: the processing is necessary for the legitimate interests of the employer or a third party and is balanced against any impact on the employee's interests.

This might be the case, for example, when employees are asked to complete a questionnaire about their health or where they have a consultation with an occupational health professional.

Information about an employee's health will be 'special category data'. This is personal data that the GDPR says is more sensitive, and so needs additional protection. As well as the above lawful bases for processing, special category data can only be processed where at least one further condition for processing special category data is fulfilled.

Those potentially relevant in the context of handling information about an employee's health include where the employee has given explicit consent. However, a problem for employers in relying on consent as a lawful basis for processing personal data under the GDPR is that consent must be 'freely given' and as easy for the data subject to withdraw as it is to give. The ICO has stated that it will be difficult for employers to rely upon consent given the imbalance in the relationship between employer and employee. Businesses are therefore advised to avoid relying on consent where possible and look for another legitimate basis for processing.

Alternative conditions under which special category data can be processed include where the processing is necessary for:

- the purposes of performing or exercising obligations or rights of the employer or employee under employment law, such as not to discriminate against an employee or dismiss them unfairly;
- establishing, exercising or defending legal claims; or
- the assessment of an employee's working capacity, subject to confidentiality safeguards.

The latter is the condition relating to medical fitness.

Employers must inform their employees of the nature of any processing they carry out – including the lawful bases the employer is relying on for any processing – in a concise, transparent, intelligible and easily accessible form, using clear and plain language. This should be done by way of a privacy notice available to all employees.

Where employers intend to rely on the 'necessary for employment obligations or rights' or 'assessment of an employee's working capacity' conditions for processing special category data, employers must have an appropriate policy document in place explaining their procedures for complying with the data protection principles, and their policies for retention and erasure of the special category data. Employers must also maintain a record of their processing activities. These documents may have to be made available to the ICO upon request.

Further details are given in **Annex C**.

## **5.0 Organisation of Medical Fitness Assessments**

Once an employer has recognised the need to carry out medical fitness assessments of employees operating construction plant, the process requires careful organisation if the maximum benefit is to be obtained by both the employer and their employees. The steps required are:-

1. Identifying individual job characteristics to enable fitness assessments to be focused and relevant;
2. Choosing an Occupational Health Provider who will best suit the size and nature of the employer's business;
3. Initial assessment of employees to establish a baseline fitness and any requirement for further action;
4. Ongoing assessment of employees at intervals to determine if there has been any change and if there is a requirement for further action;
5. Provision of ill health support, including work with restrictions, if a problem is found;
6. Evaluating medical fitness issues for recruitment of new employees;
7. Provision of evidence of medical fitness for customers of plant hire companies.

## 6.0 Identifying Job Characteristics

### 6.1 Introduction

For the assessment of medical fitness of plant operators to be effective it is essential that the Occupational Health Service Provider (OHSP) carrying out the assessment is fully aware of the specific requirements of the job that the individual operator is required to do. This will enable the assessment to be both relevant and efficient.

### 6.2 Job analysis

The starting point is analysis of the job to be carried out and the specific requirements for operating the particular type of construction plant to be operated. A description of the item of plant should drawn up (See **Annex F**), together with a list of the characteristics that are essential to the safe operation of the machine. The list of characteristics will be made up of core characteristics which apply to the operation of all plant (See **Table 1**) and machine/type/task specific characteristics (See **Table 2**).

**NOTE:** These "characteristics" are referred to in the Equality Act as "occupational requirements".

1. Operator's ability to get across construction site;
2. Climb steps/ladders to degree required to access/egress operating positions of plant;
3. Control machine accurately using standard manufacturer-fitted controls;
4. See with sufficient acuity (with corrected vision if required) to accurately carry out the range of tasks expected in the time available (See **Annex G**);
5. Hear with sufficient acuity (with hearing aids if required) to be given instructions and react to warnings (See **Annex G**);
6. Carry out pre-use checks e.g. walking, bending, looking, accessing covers.

**Table 1 - Core Essential Characteristics of Plant Operation**

1. Lift and shift heavy loads such as ancillary equipment to prepare plant for use, to degree required;
2. Comfortable working at height;
3. Comfortable with long periods of isolation and sitting in the cab;
4. Able to concentrate and stay aware for long periods;
5. Operator ability to exit cab in emergency;
6. Operator ability to exit restricted worksite in emergency;
7. Operator within weight and size parameters specified by machine manufacturer;
8. Balance.

**Table 2 - Examples of Machine/Type/Task Specific Essential Characteristics of Plant Operation**

### **6.3 Job Specification**

Once the job analysis has been carried out, a job specification should be drawn up. This will contain both the plant description and the intrinsic functions of operating the specific item of plant, together with other items such as anticipated working times, need for shift and/or night work, requirements to be on-call, preparedness to travel between sites, qualifications such as a training/competence card and required experience. Care should be taken to ensure that requirements which are unnecessary or seldom used are not included, as they may well lead to indirect discrimination.

*An example of this is where an employer uses a job description for an excavator operator which says that "employees must be comfortable working at height" when in fact the job does not require the operator to work at height, other than to climb into the excavator cab. This requirement is unnecessary and could lead to discrimination against people who suffer from fear of heights.*

## 7.0 Choosing an Occupational Health Service Provider

### 7.1 Introduction

Choosing an Occupational Health Service Provider (OHSP) requires employers to understand their individual company requirements and communicate these to potential providers. It is important for employers to have a provider they can trust to provide authoritative and high quality results. It is also important that employees feel able to be open and frank with the OHSP. This guidance will assist employers to choose an OHSP, not just when undertaking worker assessment for the operation of plant, but also for other Occupational Health activities

The range of OH provision is wide but in the main falls into three categories:-

- Commercial providers;
- In-house services;
- The public sector (i.e., the NHS both hospital based services and General Practitioners).

Depending on the size and needs of the employer, there are three main ways of engaging with an OHSP. These are shown in **Table 3**.

OHP Relationship	<i>Contract with OHSP</i>	<i>Pay as You Go</i>	<i>Employee's GP</i>
<b>Advantages</b>	Ability to choose provider with appropriate occupational health expertise; Long term relationship; Clearly defined service specification; Continuity; Consistent standards.	Convenient for SME; Costs more easily controlled.	Convenient for employee; GP has access to full medical records; May be used in conjunction with an OHSP.
<b>Disadvantages</b>	Costly for SMEs; Possible lack of flexibility - employees may have to travel to assessments.	Possible lack of continuity; Inconsistent standards.	Dr/Patient relationship which is aimed at being supportive – this can put the GP in a uncomfortable position if the employee is on the borderline of "fit" or "unfit"; GP may not have occupational health expertise; Inconsistent assessments; Inconsistent standards.
<b>NOTE:</b> These three approaches may be used in combination if appropriate e.g. OHSP + GP			

**Table 3 - OHP Relationships - Advantage and Disadvantages**

The stages of OHSP selection are illustrated in **Figure 1**. Depending on the type of OHSP relationship sought by the employer, not all of these stages will apply.



The process of choosing an OHSP may be assisted by using an independent consultant to give impartial advice on the identification of an employer's requirements and the choice of a suitable OHSP.

## 7.2 **Practicalities**

A list of providers who can meet the employer's basic practical requirements should be drawn up. Points to consider are:

- What size of provider is required – local, national, large regional?
- Is the relationship to be an ongoing one, pay as you go or using employee's GP?
- How many employees are involved and is there a shift pattern to cover? Small providers might not be able to resource large contracts, while some SMEs can find large providers too impersonal;
- Who will be making most contact with the service? If there are many line managers making referrals, a call centre may be preferable. However, if only one person is liaising with the provider on behalf of the organisation, a dedicated contact may be preferable;
- Is an on-site service required and, if so, can this be accommodated? For on-site services, a private room or office is usually all that is required. Some providers can even offer mobile units, predominantly for health surveillance;
- On some construction sites the Principal Contractor may be able to arrange medical fitness assessments of sub-contractor's personnel.

## 7.3 **Identifying Employer's Requirements**

It is important that before engaging an OHSP employers have clearly identified their requirements. These should include both general requirements for the type of service required and identifying the medical fitness aspects of each plant operator's role.

### 7.3.1 General Requirements

Employer's requirements for OHSP service should be based on the risks that will have most effect on the business. These risks should be identified by the employer's Health and Safety Manager and then checked to ensure that these match with the core services of the provider.

Employers may find it beneficial to engage an independent Occupational Health Consultant to help establish requirements and provide independent advice on the appropriateness of the services being offered by various providers. Independent advice may also be obtained from NHS Health at Work at <https://www.nhshealthatwork.co.uk/>

**NOTE:** This Good Practice Guide does not deal with health surveillance required by specific legislative requirements such as noise, vibration, radiation or blood lead levels. HSE guidance document HS(G) 61 - Health Surveillance at Work, states that it is the duty of the employer to provide health surveillance for those employees considered at risk and that it is essential that the people who carry out health surveillance are competent to do so.

### 7.3.2 Job Specific Requirements

Identifying the medical fitness aspects of each plant operator's role requires the medical fitness parameters of the item of plant to be identified (See **Annexes F and G**) and the core and machine specific characteristics of the operator to be established (See **Table 1** and **Table 2**). These will help the OHSP understand the employer's specific requirements.

## 7.4 Finding a Provider

The Safe Effective Quality Occupational Health Service (SEQOHS) Accreditation Scheme is a stand-alone scheme managed by the Royal College of Physicians of London, which has been selected to lead and manage the process on behalf of the Faculty of Occupational Medicine and has central government backing. The aim of the scheme is to ensure, through regular monitoring, that required standards are maintained by all accredited OH Services. Assessment for accreditation will be against the SEQOHS Standards, which were developed by the Faculty of Occupational Medicine in collaboration with a multi-agency, multi-disciplinary stakeholder group.

Further information can be found on the SEQOHS website at <https://www.seqohs.org/>

Occupational Health organisations are not easily categorised and can be difficult to find. There are a number of organisations who list Occupational Health providers such as :-

- Faculty of Occupational Medicine - [www.fom.ac.uk](http://www.fom.ac.uk)
- Royal College of Nursing – <https://www.rcn.org.uk/>
- Society of Occupational Medicine - <https://www.som.org.uk/>
- Association of National Health Occupational Physicians - <https://www.aohnp.co.uk/>
- Occupational Safety and Health Consultants Register - [www.oshcr.org](http://www.oshcr.org)
- Commercial Occupational Health Providers Association – <http://cohpa.co.uk/>
- Constructing Better Health - [www.cbhscheme.com](http://www.cbhscheme.com)

Personal recommendations are also a good source.

## 7.5 Selection Process

It is advisable to talk to a number of providers, setting out the employer's requirements for medical fitness assessment, and ask each organisation to confirm in writing how they would meet these requirements and to provide information on their experience, resources and references from past or existing clients. This should enable the employer to assess the match with their specific requirements.

When engaging an OHSP for a long term relationship, it is important for employers to ensure through personal meetings that they can work effectively with the provider and match in as many ways as possible, since this should be a long-term partnership.

## 7.6 Competence

The Management of Health and Safety at Work Regulations 1999 (MHSWR) state that: *“employers who appoint doctors, nurses or other health professionals to advise them of the effects of work on employee health, or to carry out certain procedures, for example, health surveillance, should first check that the providers can offer evidence of sufficient level of expertise or training in occupational health”*. The competence required will depend on the tasks performed and specific standards can be found within guidance associated with regulations. Employers should always be prepared to check an OHSP's qualifications.

## 7.7 Service Level Agreements and KPIs

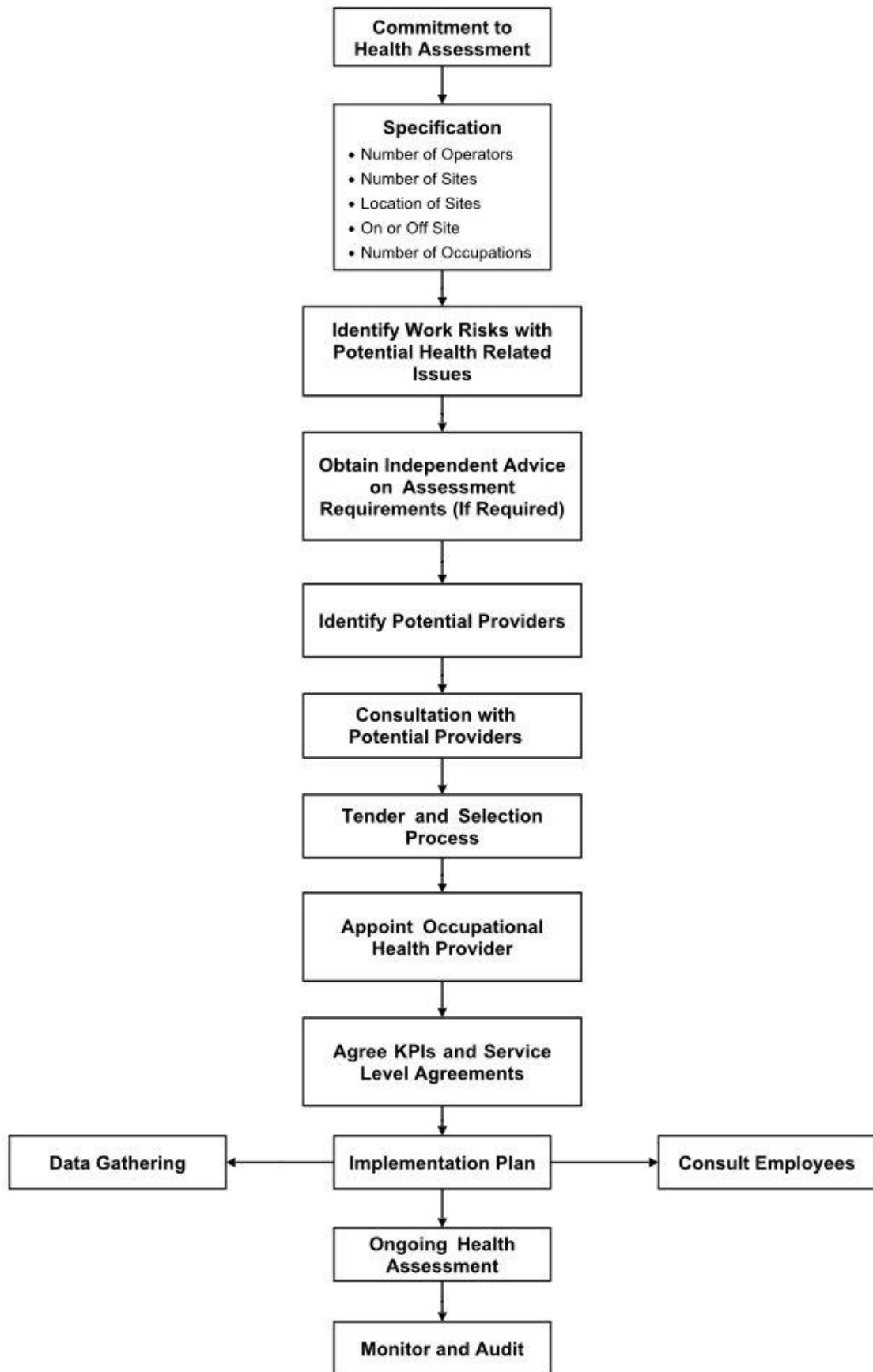
When appointing an Occupational Health Service Provider it is important to agree both Service Level Agreements and Key Performance Indicators (KPIs) with the OHSP so that both parties are clear about the level of service expected.

### **7.8     *Monitoring and Audit***

Once the OHSP has been appointed, the employer should ensure that arrangements are put in place to monitor the OHSP's performance so that any issues can be speedily identified and rectified. Health assessment should also be included in the employer's quality assurance system so that it can be subject to audit.

### **7.9     *Further Information***

Information on minimum competency standards for occupational health service providers to the construction industry is given in **Annex D**.



**Figure 1 - Choosing an Occupational Health Provider**

## 8.0 Assessment Process - Initial and Ongoing

### 8.1 Introduction

The purpose of medical fitness assessment of people operating plant is to ensure that the operator's health is of an adequate standard to allow them to operate a particular item of plant safely, thereby reducing the risk of injury or death to the operator or other persons in the vicinity.

### 8.2 Assessment Strategy

It is important that the strategy for assessment of fitness for task meets the following criteria:-

- Assures all parties in the construction process that fitness issues that could lead to risks to safety for the operator and others, are properly managed by the Operator's employer;
- Is sufficiently task specific;
- Is capable of being effectively managed by the employer;
- Is carried out competently;
- Adds value for both the employer and employee.

### 8.3 Assessment Stages

Assessment of operators will need to be undertaken at various points during their employment with a specific employer. These are:-

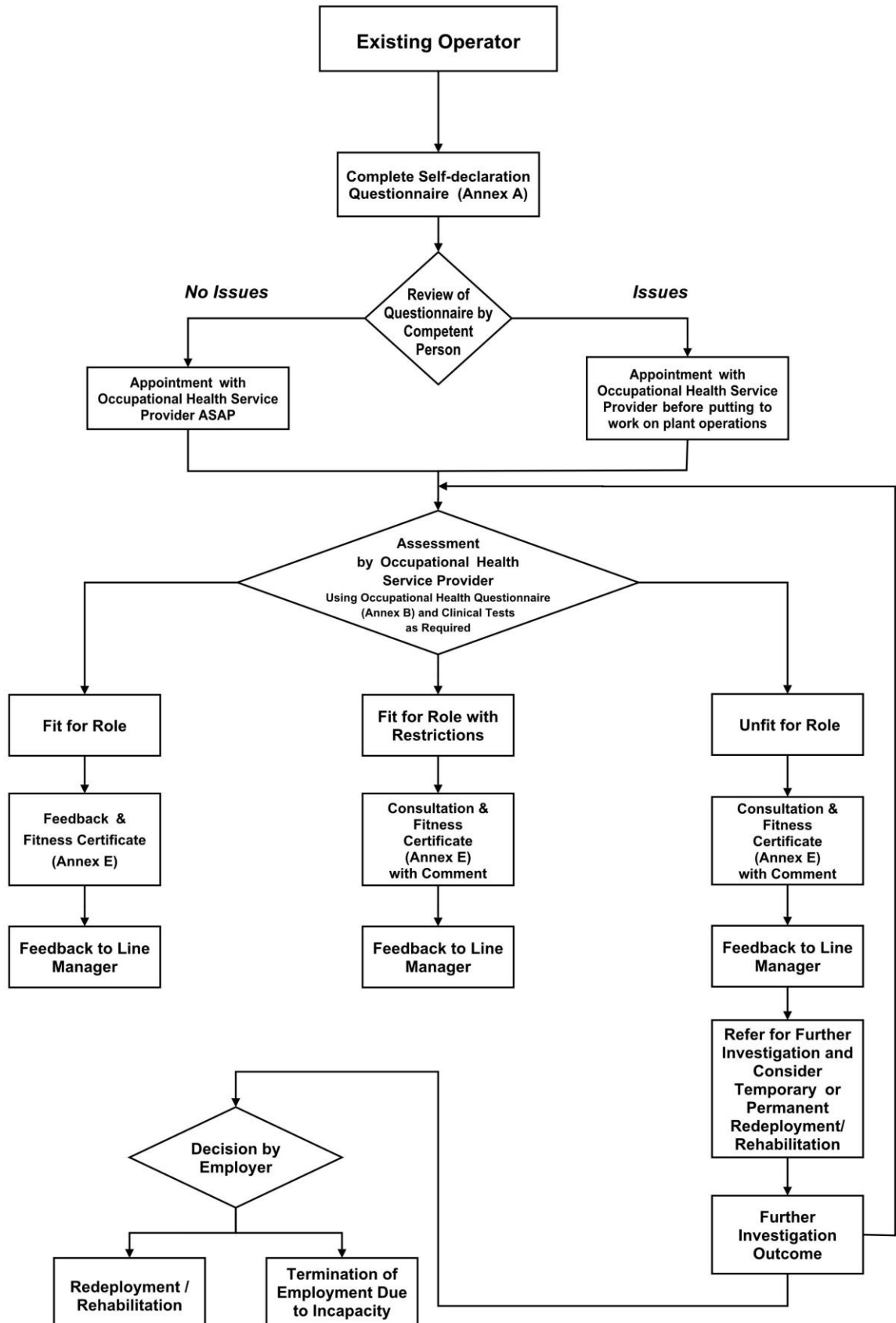
- Initial baseline assessment (See **Figure 2**);
- Health assessment at periodic intervals (See **Figure 3**);
- Assessment on change of job characteristics (e.g. moving from mobile cranes to tower cranes).

**NOTE:** Assessment on leaving employment may be considered to be of benefit to the employee and the employer in assessing the effectiveness of health risk management and the medical fitness assessment process. In addition it may be of benefit in the control of insured risks and the event of future work related disease compensation claims.

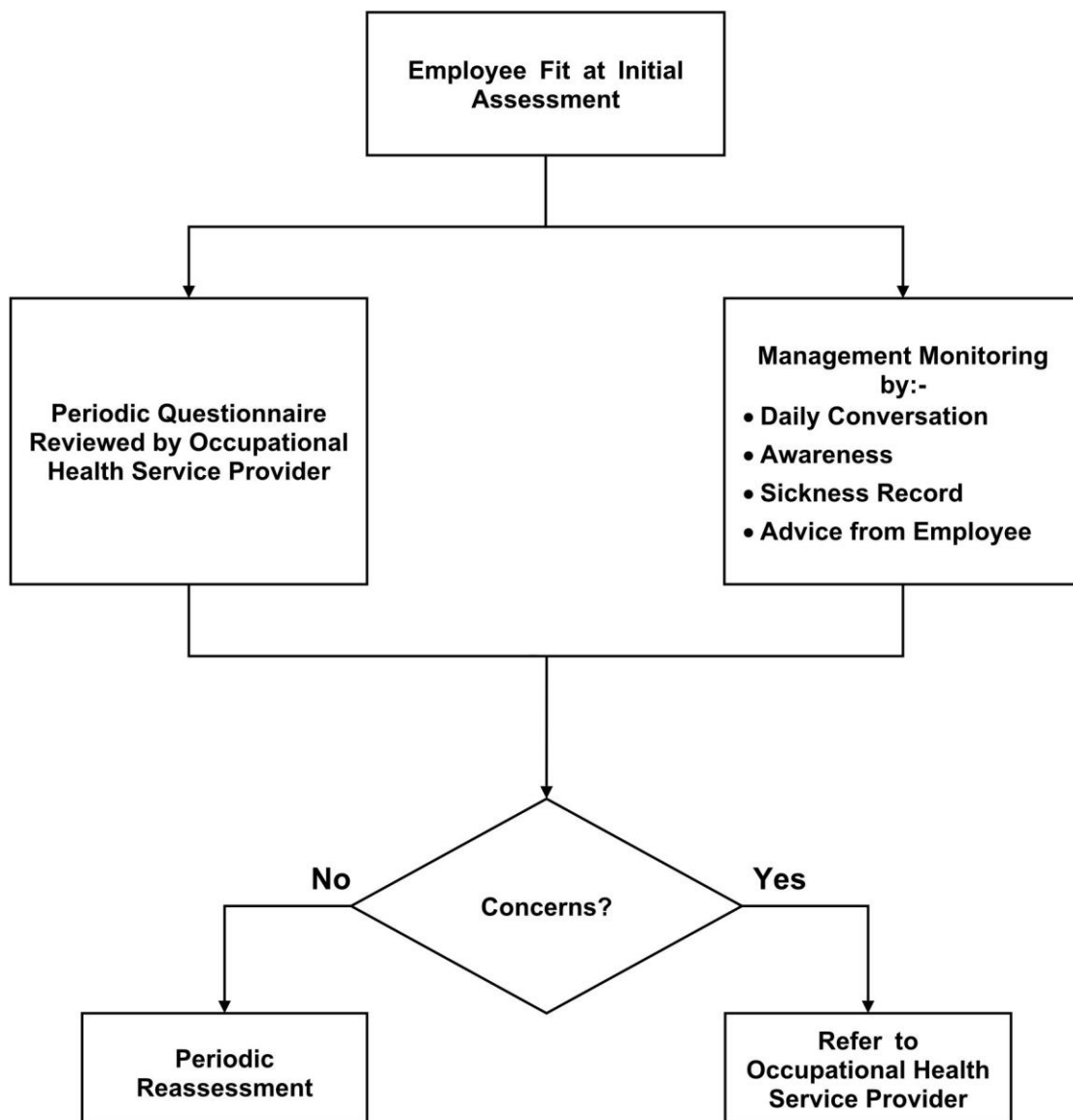
### 8.4 Assessment Frequency

The frequency of periodic fitness reassessments (See **Table 4**) is a balance between ensuring that they are at short enough intervals to ensure that significant changes are detected, but are not so frequent that they discourage employees or become uneconomic. A literature survey indicates that age related intervals may be discriminatory and that a fixed maximum interval of three years for all personnel is preferable (The OHSP may well recommend a shorter interval, taking account of factors such as task, fitness and age).

It is therefore recommended that full re-assessment of fitness for people operating plant is set at a fixed periodic review, after first assessment, of **three years**, unless otherwise advised by the OHSP. Reassessment of fitness for people operating plant with any substantial change in medical circumstances is also recommended. Such an assessment need only address the specific change in those medical circumstances, with full re-assessment when next scheduled. It is also helpful for employees to fill in a self-declaration questionnaire every year. These should be reviewed by a competent person and any concerns raised with the OHSP.



**Figure 2 – Initial Baseline Assessment Process - Existing Operators**



**Figure 3 – Periodic Assessment**

Item	Stage	Maximum Interval
1.	Initial assessment	N/A
2.	Employee questionnaire	12 months
3.	Fitness for task assessment at periodic intervals	3 years
4.	Review at change of task	As required

**Table 4 Maximum Assessment Intervals**

## **9.0 Medical Fitness and Recruitment**

### **9.1 Introduction**

When recruiting plant operators, care must be taken to ensure that enquiries about a candidate's health during the recruitment process are fair and reasonable and do not infringe the requirements of the Equality Act 2010. This section provides guidance on this process.

### **9.2 Advertising the Job**

Advertisements for the job should be based on the job specification, accurately reflect the requirements of the job and should not contain any unnecessary or spurious requirements. If candidates are required to take a skills test as part of the interview procedure this must be stated in the advertisement. The advertisement cannot specify requirements about health and fitness unless they relate to a characteristic that is essential to the job (See **Section 6.0**).

The job should be advertised as widely as possible to avoid discrimination and enable the employer to select employees from a wide and diverse pool.

### **9.3 Application Forms**

Application forms cannot ask questions about health and fitness unless they relate to a characteristic that is essential to the job.

*An example of this is where a plant company is recruiting tower crane drivers. It would be lawful under the Equality Act to ask about disability or health on the application form if the questions related specifically to an applicant's ability to climb ladders to a significant height. The ability to climb ladders is intrinsic to the job. However asking general questions about a candidate's health history would not be lawful.*

### **9.4 Selection for Interview**

Processes for selection for interview must be non discriminatory, fair and objective and ensure that decisions are consistent. Employers should also keep records that will allow them to justify each decision and the process by which it was reached and to respond to any complaints of discrimination. If the employer does not keep records of their decisions, in some circumstances, it could result in an Employment Tribunal drawing an adverse inference of discrimination.

### **9.5 Interview**

Interviews are the stage of an application process at which judgements may be made about a candidate based on instant and subjective impressions. Consequently it is important that interviews are conducted strictly on the basis of the application form, the job description, the agreed weight given to each criterion and the results of any selection tests. In this way an employer will ensure that all applicants are assessed objectively, and solely on their ability to do the job satisfactorily.

With regard to questions on health matters, the same criteria as for application forms applies.

### **9.6 Evaluation of candidates**

As with selection of candidates for interview, the evaluation of candidates following interview and any skills testing must be conducted in a consistent and objective manner. Health issues can only be considered where they have a direct bearing on the intrinsic functions of the job for which candidates are being evaluated.



## **9.7 Job Offers**

Once a candidate has been selected and a job offer is made it is permissible to make enquiries about the prospective employee's general health or to require them to undertake a health assessment (See **9.8**). It is also possible to make the job offer conditional on the outcome of these enquiries or assessment. However employers must ensure that they do not discriminate against a disabled job applicant, particularly if reasonable adjustments can be made to the plant and working environment to accommodate their disability.

## **9.8 Health Assessment at Job Offer**

If a job offer is conditional on the outcome of a health assessment, that assessment will follow the process outlined in **Section 8.0** using **Figure 4 in place of Figure 2**.

## **9.9 Induction**

If the candidate accepts the job offer, arrangements should be made for their induction into the company and on the site on which they are to work. This should include the assessment of any necessary adjustments required to the plant and working environment to accommodate any disabilities.

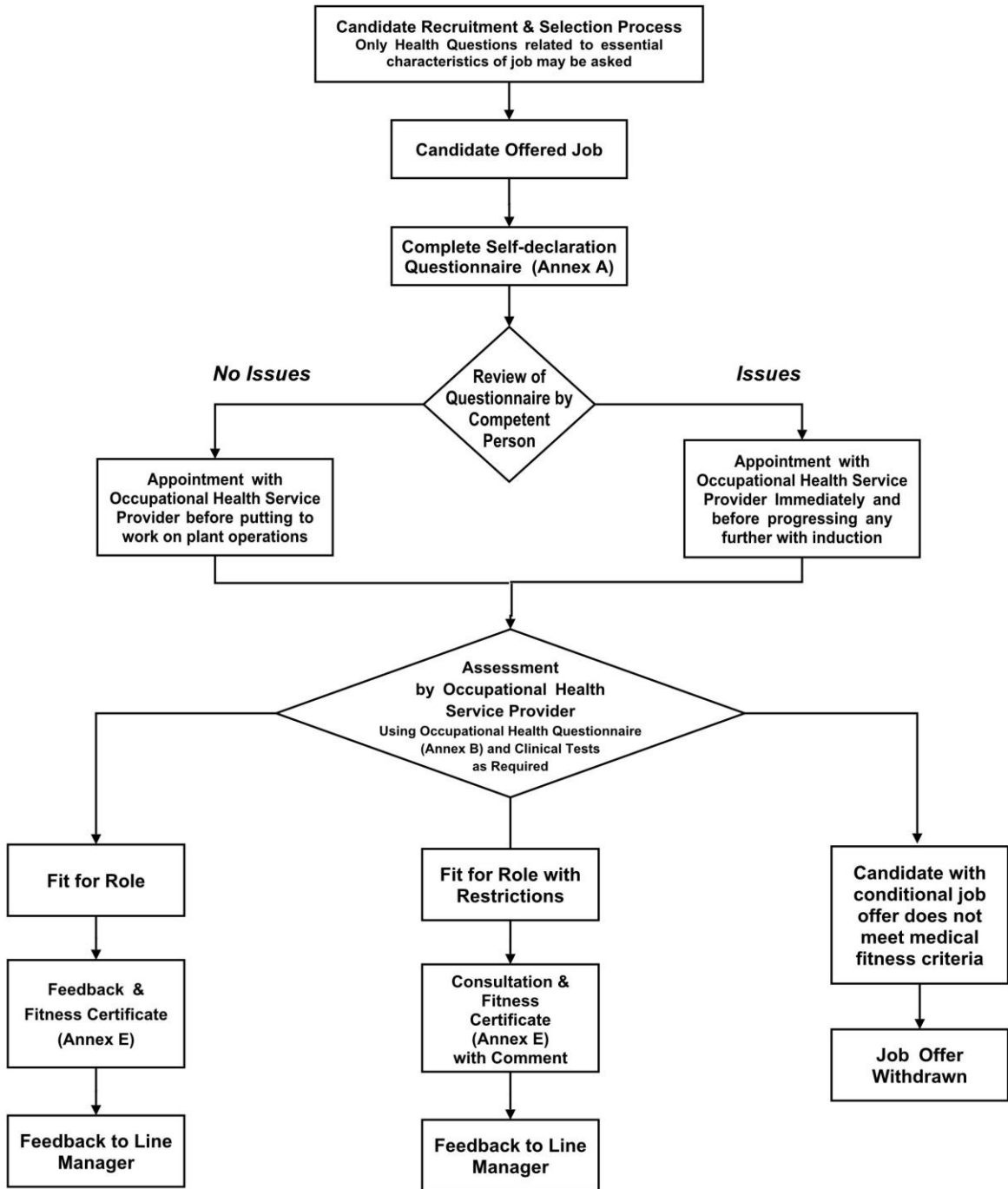
## **9.10 Putting to work**

Once the induction process has been completed, and in the case of disabled operators any necessary adjustments made, the new operator should be put to work.

## **9.11 Further Information**

Further detailed information on ensuring that the recruitment process is fair and non-discriminatory is given in *Equality Act 2010 Code of Practice - Employment Statutory Code of Practice* published by the Equality and Human Rights Commission and downloadable from:-

<https://www.equalityhumanrights.com/sites/default/files/employercode.pdf>



**Figure 4 – Initial Baseline Assessment Process -  
New Candidates for Plant Operation**

## **10.0 Evidence of Medical Fitness for Customers**

One of the purposes of medical fitness assessments for construction plant operators is to be able to demonstrate to those hiring plant and operators that the operators are medically fit to undertake the tasks they are asked to do. When providing this evidence it is important that employers ensure that data protection and patient confidentiality requirements are observed. Any statement of fitness should confine itself to the fact that the employee has been assessed by the OHSP and found to be medically fit to operate the specific item of plant.

## 11.0 Assessment Requirements and Standards

### 11.1 Introduction

It is important when medical assessments of people operating plant are carried out that they are both appropriate and carried out to a recognised and consistent standard. This will ensure that money and time are not spent on unnecessary tests and that a person's fitness can be monitored over time.

### 11.2 Typical Assessments

When assessing the fitness of people operating plant the following typical assessments should be undertaken. These may be supplemented by additional assessments if required.

#### 11.2.1 Health Questionnaire

This is aimed at establishing a plant operator's previous health history, highlighting any current problems and medication.

#### 11.2.2 Musculo-skeletal Health, Mobility and Coordination Assessment

Ability to access and control the machine effectively and safely e.g. dexterity, head movement and susceptibility to whole body vibration issues.

#### 11.2.3 Cardio-vascular Health

Provides indications of acute or underlying health problems that may lead to reduced ability or incapacity.

#### 11.2.4 Nervous System

Ability to control the machine effectively and safely.

#### 11.2.5 Visual Acuity, Colour Perception and Peripheral Fields

Ability to see personnel in danger areas, judge distances and anticipate hazards. Ability to see warnings and danger signals.

#### 11.2.6 Hearing

Ability to hear warnings from anyone and receive directions from a supervisor.

#### 11.2.7 General Health Assessment

Provides indications of acute or underlying health problems that may lead to reduced ability or incapacity.

#### 11.2.8 Psychological/Mental Health

Stability for working in isolation (i.e. machine cab), in stressful situations and situations carrying high responsibility.

#### 11.2.9 Optional Drug and Alcohol Screening

To address specific issues in the workplace after specific incidents and in accordance with company policy.

### 11.3 Requirements

The pass/fail requirements for each of the assessments listed in **11.2** should be agreed between the employer and their Occupational Health Service Provider. **Annex G** gives further details of the seven core elements to be assessed for those individuals wishing to operate mobile plant. These standards have been compiled from the DVLA, CBH, HSE and Fitness for work - medical aspects guidance.

## **References**

- *At a glance Guide to the current Medical Standards of Fitness to Drive* - Driver and Vehicle Licensing Agency
- *Occupational Health Standards for the UK Construction Industry Issue 2 - Constructing Better Health*
- *Occupational health standards in the construction industry* - HSE Research Report RR584

### **Case Study**

When setting up a programme to assess fitness to operate construction mobile plant Company A identified a forklift truck operator who had vision in only one eye. He had been employed as a forklift truck operator for a considerable time and was considered a safe and competent operator, despite this restricted vision. As he had compensated for this defect, he was permitted to continue to operate forklifts. After a period of time, it was observed that the operator had a number of near misses and his manager put him forward for a review of his medical fitness to operate the equipment. During this review it was found that he had developed a neck problem which reduced his ability to look over each shoulder. As a result of this he was prevented from operating forklift trucks and provided with other work.

## 12.0 Consultation with Employees

### 12.1 Introduction

All workers have the right to be consulted. Consultation is the process of managers and workers (or their representatives) jointly considering and discussing issues of mutual concern. It involves seeking acceptable solutions to problems through a genuine exchange of views and information.

Consultation is **not** negotiation and it is **not** just giving information or telling employees what the employer has already decided to do. Consultation does not remove the right of managers to manage – they must still make the final decision – and does not require managers and workers to agree. It does however, oblige managers to seek and listen to the views of workers before decisions are taken.

The benefit of consultation is that people's behaviour is more likely to be influenced if they understand and have contributed to management decisions.

### 12.2 Legal requirements for consultation

Two principal sets of regulations require workers to be consulted on health and safety matters. One is for undertakings where trade unions are recognised for collective bargaining purposes (*The Safety Representatives and Safety Committees Regulations 1977*), and the other is for circumstances where this is not the case (*The Health and Safety (Consultation with Employees) Regulations 1996*). Other regulations that require consultation of employees, most of which are sector specific are not considered in detail here (See **Table 5**).

### 12.3 Employees duty to inform

Employees have a duty to inform their employers about any changes to their health which may affect their ability to carry out their work safely.

The Safety Representatives and Safety Committees Regulations 1977	The Health and Safety (Consultation with Employees) Regulations 1996
<p align="center"><b>“Safety Representatives”</b></p> <p>Appointed in writing by a recognised trade union recognised for collective bargaining purposes</p>	<p align="center"><b>“Representatives of Employee Safety”</b></p> <p>Elected by the workforce</p>
<p align="center"><b>Role</b></p> <ul style="list-style-type: none"> <li>• Representation of employees in consultation with the employer on specified matters</li> <li>• Investigation of workplace incidents, complaints and potential hazards</li> <li>• Presentation of the findings of such investigations to the employer</li> <li>• Inspection of the workplace;</li> <li>• Representation of employees in dealings with health and safety inspectors</li> <li>• Attendance at health and safety committee meetings</li> </ul>	<p align="center"><b>Role</b></p> <ul style="list-style-type: none"> <li>• Representation of employees in consultation with the employer on specified matters</li> <li>• To take up with employers concerns about possible risks and dangerous events in the workplace that may affect the employees they represent</li> <li>• Presentation of the findings of such investigations to the employer</li> <li>• To take up with employers <b>general matters affecting the health and safety</b> of the employees they represent</li> <li>• Representation of employees in dealings with health and safety inspectors</li> <li>• Attendance at health and safety committee meetings</li> </ul>

**Table 5 - Comparison of functions of Safety Representatives and Representatives of Employee Safety**

## 13.0 Employment Issues

The assessment of medical fitness to operate construction plant will have a significant impact on the relationship between an employer and their employees. At all stages of the assessment process from the selection of an OHSP, through initial and periodic assessment, to decisions about an employee's future resulting from assessment outcomes, employers must ensure that they consult their Human Resources departments to ensure that employees are treated fairly and that they comply with legal requirements.

Part of the fair treatment of employees is ensuring that if a problem is found during the medical fitness assessment process, suitable support is given to assist the employee to overcome or come to terms with the problem.

In the case of smaller employers who do not have access to in-house Human Resource departments, advice on employment matter can be obtained from:

- The Advisory, Conciliation and Arbitration Service (ACAS) - <http://www.acas.org.uk>
- GOV.UK - [www.gov.uk/browse/employing-people](http://www.gov.uk/browse/employing-people)

## Annex A - Example Self Declaration for New Plant Operators

### Part 1: To be completed by Employer/Company Representative

Surname/Family Name		Address		Manager contact details:	
Forename(s)		Postcode		Location	
Date of birth	National Insurance number			Telephone (home)	Job Title
		Telephone (work)			
<b>State Type of Construction Plant Here:</b>					
Evidence of competence					

### Part 2: To be completed by Employee/Applicant – return the completed form to your Manager or HR

Answer the following questions with either a YES or NO – if you answer NO you will be able to start training in using Mobile Plant. If you answer YES then an appointment will be made for you to see the Occupational Health nurse or doctor to discuss your health issues in private.

Please answer the following:	Yes	No
Do you need any special adaptations/aids to assist you at work, whether or not you have a disability?		
Are you having or waiting for health treatments or investigations of any kind at present?		
Do you or have you ever had any health problems which have been caused or made worse by your work?		
Are you aware of any health issue that may affect your or other's safety when operating mobile plant?		

Signed:

Date:

<b>To the employing Manager</b>
<p><i>If applicant answers 'yes' to the above, it is advisable to refer them to Occupational Health Service Provider <u>before</u> beginning work on Construction Plant. Ask applicants to complete Occupational Health Questionnaire (Annex B) for review by the Occupational Health Service Provider.</i></p> <p><b>Date &amp; Time of Appointment:</b></p> <p><b>Address of Occupational Health:</b></p> <p><b>Notes:</b></p>



## Annex B – Example Occupational Health Questionnaire (See 8.0)

### Part 1: To be completed by Employer/Company Representative

Surname/Family Name		Address		Manager contact details:	
Forename(s)		Postcode		Location	
Date of birth	National Insurance number	Telephone (home)		Job Title	
		Telephone (work)			
<b>Type of Construction Plant to be Operated:</b>					

Approximate date of last health check if applicable .....

### Part 2: To be completed by Employee/Applicant – send to Occupational Health Service Provider in the envelope provided

Complete all parts by ticking the boxes and providing more details where required. At the end you will be asked to sign a declaration, to say that you have answered the questions truthfully and to the best of your knowledge. Please be reassured that the medical information you provide will remain confidential to Occupational Health.

#### Health history/current condition (since your last health check with an Occupational Health Service Provider)

Have you ever had any of the following?	Yes	No	If yes, please give details including any tests or investigations carried out
1. Anaemia or other blood disorders?			
2. Disorders of the nervous system including epilepsy, balance problems, dizziness or light-headedness?			
3. Recurrent or persistent headaches?			
4. Psychiatric illness or trouble with nerves, stress, depression or anxiety, early waking or unpleasant dreams or difficulty sleeping?			
5. Disease of the heart or circulation including angina, chest pains, palpitations swollen ankles, leg cramps when walking and high blood pressure?			
6. Allergy to any food, drug or other substance at home or at work? Please describe the effect.			
7. Asthma, bronchitis or chest disease such as persistent cough or breathlessness?			
8. Stomach or duodenal ulcer, indigestion, heartburn or stomach pains?			
9. Bowel disorder or problems?			
10. Kidney or bladder disorder, pain, blood or frequency in passing urine?			
11. Diabetes or thyroid disease?			
12. Hernia or rupture?			
Have you ever had any of the following?	Yes	No	If yes, please give details including any

			tests or investigations carried out
13. Disorder of the back, neck, joints or muscles?			
14. Disorder affecting the hands or arm?			
15. Skin disease or dermatitis?			
16. Ear disease or deafness?			
17. Eye disorders including colour blindness? Have you had laser/corneal surgery?			
18. Hepatitis, jaundice or other liver or gall bladder disease?			
19. Disturbed sleep from snoring or breathing difficulty, daytime sleepiness, or diagnosed with a sleep disorder			
Other Issues	Yes	No	If yes, please give details including any tests or investigations carried out
20. Do you take illegal drugs or believe you have an alcohol problem?			
21. Have you ever had a serious injury or broken bones?			
22. Have you ever had an operation?			
23. Have you had or are you waiting for any investigations, tests or treatment?			
24. Are you taking any drugs or medicines? If yes, please list.			
25. Have you left a job for medical reasons?			
26. Have you ever had an illness caused by your work?			
27. Have you been away from work for at least two weeks due to illness in the past two years?			
28. Do you suffer from any other health problem or disability, which is relevant to your job or the proposed job?			
<b>Notes (more space for any details – continue overleaf if necessary)</b>			

**Go to next page to sign declaration.**

Please read and sign the following:-

**Declaration**

I declare that the information I have provided about my health is to the best of my belief true and complete. As a result of completing this form I understand that I may be asked for clarification of one or more points arising from the questionnaire, a report may be requested from my GP/Specialist, and/or I may be invited to attend a medical examination.

I also understand that if, in the event that I am employed, it is subsequently shown that I have knowingly provided misleading or false information, or knowingly withheld medication information, I may be in breach of my employment contract.

Print name ..... Date .....

Signature .....

**Data Protection Declaration**

I consent to the computer and other processing and use (which may be in any part of the world) by the data controllers and relevant third parties of: (i) my personal medical details contained in this questionnaire and (ii) all test results obtained from any periodic medical examination that I may have, for the following purposes:

1. Combining my health data (identified by my name) with data of other employees (identified by name) to produce, at any time and from time to time, basic and detailed reports of all employees' health;
2. Forwarding those reports set out in paragraph 1, at any time and from time to time, to my employer so that it can identify any decline in my, or other employees', health in order to take appropriate action to comply with its obligations under any health and safety legislation; and
3. Retaining my health data (identified by name) for the purposes of comparing with more recent data to produce those reports set out in paragraph 1 above.

For the purposes of this declaration the test results that may be processed and used include, but are not limited to, tests for eyesight, hearing, cardio-vascular, respiratory, gastro-intestinal, genito-urinary, muscular-skeletal, and neurological conditions, blood, urine and drug/alcohol tests and tests for vibration related disorders.

Print name ..... Date .....

Signature .....

## Consent to Obtain a Medical Report

Before we can apply for a medical report from a doctor we need your consent, and a declaration for this appears below. However, you should know that you have certain rights under the Access to Medical Reports Act 1988/Access to Personal Files and Medical Reports Act (Northern Ireland) Order 1991.

The main points of the Act are as follows:

1. If you indicate that you do not wish to see the report we will not notify you if we apply for one. However, if before such a report is sent to us you write to your doctor requesting to see it, you will have 21 days to contact your doctor about arrangements for you to see the report.
2. If you indicate that you wish to see the report, we will write to you at the same time as we contact your doctor. We will indicate that you have asked to see the report and that you have 21 days to contact your doctor to make arrangements to do so. When you have seen the report the doctor may not send it to us until you have given your consent to do so. If you do not contact your doctor within 21 days the report will be sent to us.
3. You can ask your doctor if he/she will amend any part of the report which you consider to be incorrect or misleading. If your doctor is not in agreement you may attach your comments.
4. During the six months after we have received your report you may ask your doctor to see a copy. Should you ask for a personal copy of the report the doctor can charge you a reasonable fee to cover the cost.
5. In some circumstances the doctor may decide, in the interest of your health, or to respect the interest of other persons, that you should not see all or part of the report. The doctor will notify you of this and you will have the right to see any remaining part of the report. If it is the whole of the report which is affected, this will not be given to us without your consent.
6. You can withhold your consent.

### ***Please read and sign the declaration below.***

I have been informed of, and understand, my statutory rights under the Access to Medical Records Act 1988/Access to Personal Files and Medical Reports (Northern Ireland) Order 1991. I hereby consent to Occupational Health or its agents seeking medical information from any doctor who has attended me for any periodic medical assessment concerning anything which affects my physical and/or mental health, and that this information should be passed to the company Occupational Health Department. I agree that a copy of this consent shall have the validity of the original.

I do/do not wish to see any such report before it is sent to the company.\*

***\*Please delete if you do wish to see a copy of any report.***

Print name .....Date .....

Signature .....

### **For Office use only**

Assessment of current occupational health status

Normal	
Unchanged	
Changed	
Examination by Nurse/Doctor Recommended?	

Signature of Examiner ..... Date.....

Name of Examiner.....

## Annex C - Employer's Duties for the Collection and Use of Employee's Health Information

Employers should:-

- Consider why they want to collect and use this information. This might mean identifying a problem they are trying to solve, for example work that is safety critical;
- Make sure that they can satisfy a “special category data” condition. This is most likely to be met if collecting and processing the data is necessary for:-
  - the purposes of performing or exercising obligations or rights of the employer or employee under employment law, such as not to discriminate against an employee or dismiss them unfairly;
  - establishing, exercising or defending legal claims; or
  - the assessment of an employee's working capacity, subject to confidentiality safeguards.
- Bear in mind that if consent is relied upon, it must be freely given. This means an employee must be able to say ‘no’ without a penalty being imposed and must be able to withdraw consent once given. A person is more likely to be in this position at the recruitment stage than when they are employed;
- Be clear that they can satisfy a special category data condition and check that the collection and use of health information is justified by the resulting benefits;
- Remember that:
  - gathering information about their employees’ health may be intrusive;
  - employees can legitimately expect to keep their personal health information private and expect that employers will respect this privacy;
- Consider whether alternative ways of collecting information about their employee's health would deliver the benefits they want, while being more acceptable to the employee. For example, a health questionnaire might be used rather than medical testing or at least a questionnaire used to select those to be tested;
- Collect health information in areas of significant risk. Consideration should be given to whether or not just a few individuals whose jobs are safety critical can be involved;
- Keep information about employee’s health particularly secure. This might mean allowing only one or two people to have access to it, for example by password-protecting it, or keeping it in a sealed envelope in an employee's file. Medical information should only be viewed by Occupational Health Professionals, whilst Fitness to Work certificates can be accessible to managers;
- Not keep information for longer than necessary or collect more information than is essential. See **Table C1** for suggested minimum retention periods;
- Remember that an employer’s interest is mainly in knowing whether an employee is or will be fit to work. As far as possible it should be left to doctors and nurses to access and interpret detailed medical information;
- Ensure that employees are informed that information about their health is being collected and why;
- Ensure that where a specific action is being taken, for example where an employee is to undergo a medical test, the employee is made fully aware of what, why and how much information is to be collected. Care should be taken to

ensure that if the employee is referred to a doctor or nurse, they know what type of information the employer will receive as a result;

- It may be necessary for interpreters to attend medicals in order to ensure that the person being checked understands the reason for the examination and what the data is used for. The interpreter is then aware of the medical history of the individual so they need to be aware of data protection requirements.

<b>Type of Record</b>	<b>Suggested Minimum Retention Period</b>	<b>Reason for Length of Period</b>
Pre-placement health screening questionnaire and/or Fitness for Work Certificate	During employment plus 3 years	Ongoing review by management + Evidence of fair treatment + Limitation period for personal injury claims.
Fitness for Work Certificate	During employment plus 3 years	For ongoing review by management + Limitation period for personal injury claims.
Occupational Health Records where reason for termination of employment is connected with health, including stress related illness	During employment plus 3 years	Limitation period for personal injury claims

**Table C1 – Suggested Minimum Retention Periods for Certain Types of Records**

## **Annex D – Minimum Competency Standards for Occupational Health Professionals in the Construction Industry**

In addition to the fulfillment of the necessary legal requirements of employment of clinical staff, the construction industry should apply the following minimum levels of competence:

### **Occupational Health Physicians**

Occupational health physicians (OHP) are required by law to possess skills and expertise including an understanding of the health hazards that can arise at work, the ability to assess risks relating to the health of individuals and groups, knowledge of the law relating to workplace issues and awareness and understanding of the way business operates.

There are currently three levels of qualification in occupational medicine for doctors,

- The Diploma in Occupational Medicine (DOccMed.)
- The Associateship of the Faculty of Occupational Medicine (AFOM)
- Membership of the Faculty (MFOM).

In addition, the Fellowship of the Faculty (FFOM) is awarded to those occupational physicians with MFOM who have made a distinguished contribution to the specialty and who demonstrate a greater depth of experience and expertise in occupational medicine.

Physicians without these qualifications who rely solely on experience gained in the workplace may not meet the requirements for competence that are demanded by many aspects of health and safety legislation. Therefore, the Diploma in Occupational Medicine has been identified as the minimum standard for the construction industry. However, all physicians practising in the construction industry should work within the limits of their competence and be cognisant of the need to have access to a nominated Accredited Specialist Occupational Physician (Accredited Specialist in Occupational Medicine who is on the GMC Specialist Register) for advice as needed. The level of occupational health expertise will need to be commensurate with the level of health risk identified for the project e.g. for a complex construction project it would be usual for the occupational health provision to be led by a Consultant Occupational Health Physician.

For a physician led occupational health service (physician led is defined as the situation whereby the occupational health services are being managed and controlled by a physician), the lead physician must be either an Accredited Specialist in Occupational Medicine (Accredited Specialist in Occupational Medicine who is on the GMC Specialist Register) or have the necessary access to a nominated Accredited Specialist Occupational Physician for advice as needed.

### **Occupational Health Nurse Advisors**

OHNAs carrying out occupational health surveillance should hold current registration with the Nursing and Midwifery Council (NMC), as a minimum. They may also hold an occupational health qualification at Certificate, Diploma or Degree level. If they do not have an occupational health qualification then they should be working under the necessary level of supervision of an appropriately qualified clinician (Doctor or Nurse). Nurses will need to renew their registration every year with the NMC.

For a nurse led occupational health service (nurse led is defined as the situation whereby the occupational health services are being managed and controlled by a nurse.), the lead nurse should also be registered as a Specialist Community Public Health nurse (Occupational Health) with the NMC and have access to a nominated Accredited Specialist Occupational Physician (Accredited Specialist in Occupational Medicine who is on the GMC Specialist Register) for advice as needed.

## **Occupational Health Technicians**

The occupational health technician is a developing role. With the expert supervision of OH qualified nurses and doctors and the correct training, they may be able to carry out aspects of health screening required within an OH programme, which in turn frees-up the OH clinicians for other, more appropriate tasks. Currently there are no minimum standards available to follow although there are academic organisations currently looking to develop a training programme for technicians.

Occupational health service providers (OHSP) must hold appropriate business and professional indemnity insurance, comply with applicable legislation, and should not undertake work without having seen or had access to the employer's relevant Health and Safety policies to determine how Health and Safety is managed.

The Health Professional should be able to demonstrate awareness of legislation, policies or programs that might interfere with or affect the performance of the health assessment for example, drug alcohol policy, critical incident management programs, anti-discrimination legislation, medical ethics and privacy legislation.

Occupational health service providers should have:

- Appropriate quality monitoring processes i.e. a clinical audit programme;
- Clinical training programmes;
- Business and professional indemnity insurance;
- Appropriate registration under the Data Protection Act (1998)
- A health and safety policy for those with five or more employees;
- Access to construction industry occupational health policy and procedures to which they provide a service.

## **Construction Industry Knowledge:**

The health professional should demonstrate familiarity with Occupational Health Standards for the UK Construction Industry and working knowledge of Assessment Procedures and Medical Criteria, including:

- Appreciation of the role of health assessments in ensuring construction safety;
- Familiarity with the risk management approach used to identify the level of health assessment required;
- Familiarity with the tasks in construction plant operations and with major tasks of Safety Critical Workers;
- Knowledge of construction safety worker Risk Categories and the rationale for health assessments applied;
- Knowledge of ability to perform the Safety Critical Worker Health Assessment;
- Understanding of requirements and reporting options for fitness for construction safety duty;
- Knowledge of the assessment's administrative requirements, including form completion and record keeping;
- Understanding of ethical and legal obligations and the ability to conduct health assessments accordingly, including appropriate communication with the worker and the employer;

Understanding of ethical issues in relationships with the treating doctor/general practitioner.



An OHSP's record keeping should meet the requirements set out the Data Protection Act 2018 and those of the various regulatory bodies, i.e. The Nursing and Midwifery Council (NMC), and the General Medical Council (GMC), the OHSP will also be familiar with the recommendations made by the HSE in relation to the keeping of health records that form part of a health surveillance programme.

The Faculty of Occupational Medicine's guidance on ethics for occupational doctors is followed regarding the provisions for transfer and storage of records and the confidentiality of health data.

There may be occasions where an OHSP may not meet all the criteria above. However the OHSP may demonstrate the required knowledge, skills and experience, and have the relevant procedures in place to enable them to provide an occupational health service which is at least equivalent to the minimum industry standards.

## Annex E - Example of a Fitness to Work Certificate from the OHSP to the Employer

### Fitness to Work Certificate for Plant Operator

<b>PERSONAL IN CONFIDENCE</b>
-------------------------------

To:		Date Screened:	
-----	--	----------------	--

Name:		Date of Birth:	
-------	--	----------------	--

Type of Machine Operated	
--------------------------	--

Contracting Company:		Location:	
----------------------	--	-----------	--

<input type="checkbox"/>	Mobile Plant	<input type="checkbox"/>	Static Plant	<input type="checkbox"/>	Work at Heights	<input type="checkbox"/>	Vocational Driver
--------------------------	--------------	--------------------------	--------------	--------------------------	-----------------	--------------------------	-------------------

**I have found them to be: - (Please tick)**

(Please delete as appropriate)

<input type="checkbox"/>	Fit for purpose / continued employment
--------------------------	--

<input type="checkbox"/>	Fit to attend Safety Induction Training, but must attend Occupational Health department for medical assessment prior to commencing work on site.
--------------------------	--

<input type="checkbox"/>	Fit for purpose/continued employment subject to the following restrictions-
--------------------------	---

<input type="checkbox"/>	Fit for purpose/continued employment, is likely to be covered under the Equality Act 2010 (Disability Discrimination )
--------------------------	--

<input type="checkbox"/>	Fit for purpose/continued employment, but requires	REVIEW in	
--------------------------	--	-----------	--

<input type="checkbox"/>	I found him/her to be temporarily unfit.	REVIEW in	
--------------------------	--	-----------	--

<input type="checkbox"/>	Unable to pass fit for purpose/continued employment and referred to:	
--------------------------	--	--

<input type="checkbox"/>	Advised to see General Practitioner/Consultant/Physiotherapist
--------------------------	--

<input type="checkbox"/>	Advised to see Optician
--------------------------	-------------------------





<input type="checkbox"/>	Awaiting information from GP/Consultant
--------------------------	---

<input type="checkbox"/>	Referred to Occupational Physician
--------------------------	------------------------------------

<b>Further Information:</b>	
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<b>Signed:</b>		Occupational Health Advisor
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## Annex F - Examples of Plant Descriptions

	<i>Machine Type</i>			
	<b>Telehandler</b>	<b>Tower Crane</b>	<b>Dumper</b>	<b>360°Excavator</b>
<b>Typical Example</b>				
<b>Purpose</b>	Transportation of palletised goods around site and lifting at height (typically 15 metres) to landing points on the structure under construction.	Lifting of materials to landing points on the structure under construction. Total lift distance may be in excess of 100metres	Transportation of loose materials around site	Excavation of material from the ground, forming stockpiles, loading into transport and backfilling
<b>Environmental Protection</b>	Heated cab	Heated cab	None	Heated cab
<b>Access Distance (Climb)</b>	< 1 metre	Typically between 30m and 100m	< 1 metre	< 1 metre
<b>Typical Shift Duration</b>	3 hours	4 - 6 hours	3 hours	3 hours
<b>Maximum Travel Speed</b>	15 mph	N/A	12 mph	4 mph
<b>Communication method</b>	Direct verbal instruction and hand signals	Verbal instructions via radio and hand signals	Direct verbal instruction and hand signals	Direct verbal instruction and hand signals
<b>Physical Operating Requirements</b>	Operate controls whilst sat on fixed seating, leaning forward, turning neck and upper body 180°. Getting down from cab at intervals to change attachments or check security of connection	Operate controls whilst sat on fixed seating, leaning forward, turning neck and shoulders 90° right and left	Operate controls whilst sat on fixed seating, leaning forward, turning neck and upper body 180°.	Operate controls whilst sat on fixed seating, leaning forward, turning neck and upper body 180°. Getting down from cab at intervals to change attachments or check security of connection

## Annex G – Seven Core Elements to be Assessed for Individuals Wishing to Operate Construction Plant - Guidance

The guidance given below has been compiled from the DVLA, CBH, HSE and Fitness for work – medical aspects guidance. Results of individual tests should not be taken in isolation in assessing individual fitness but should be used as part of an overall clinical assessment.

<b>Core Elements</b>	<b>Assessed Outcome</b>	<b>Elements to be Assessed</b>
<b>Overall clinical assessment</b>	The combined effect of any physical, medical or psychological condition is controlled to a satisfactory level not to interfere with the activities required of a construction plant operator.	See Below
<b>1. Musculo-skeletal health, mobility and co-ordination</b>	No evidence of musculo-skeletal disorder, mobility, balance or co-ordination disorder.	Full range of movement of the trunk, neck, upper and lower limbs required:- a. Chronic pain or restriction of joint movement does not interfere with mobility; b. Individual's with prosthesis require individual operational assessment with OHA, Manager and operator.
<b>2. Cardio-vascular health</b>	a. Normal blood pressure and no cardiac symptoms presented or reported; b. Adequate control of cardio-vascular risk factors.	Blood pressure should be controlled:- • Diastolic below 95 mmHg; • Systolic below 150 mmHg.
<b>3. Nervous system</b>	No evidence or reporting of neurological disorder.	Vertigo, giddiness and balance disorders, ataxia, diplopia, significant tremor, paralysis, generalised or localised muscular weakness and peripheral/autonomic neuropathy are a bar to operating construction plant.  Epilepsy which has been controlled, free from fits for 10 years, no anti-epileptic treatment for 10 years and no continuing liability for seizures, normal EEG. Withdrawal from anti-epileptic treatment is not considered compatible with mobile plant operating unless cleared by a Neuro-Consultant.  • Individual functional and operational assessment is required for those employees post TIA / CVA and with medical problems which restrict capability to stand, walk, sit for periods of time.
<b>4. Visual acuity, colour vision and peripheral fields</b>	a. Uncorrected or corrected vision of an adequate standard; b. No pathological condition of the eyes likely to cause visual impairment should be present; c. No pathological defect of the visual fields demonstrated; d. No significant pathological colour deficiency noted.	Uncorrected or corrected visual acuity at least 6/9 in one eye and 6/12 in the other. No operation of construction plant until corrected vision to the required vision demonstrated. <u>Monocular vision</u> • An individual functional and operational assessment with the OHA, Manager and operator. <u>Colour vision</u> Has passed Ishihara (24) plates/city test standard for colour perception, no colour deficiency noted.  • Worker identified as safe where minor degrees of anomalous trichromatism.

<b>Core Elements</b>	<b>Assessed Outcome</b>	<b>Elements to be Assessed</b>
<b>5. Hearing</b>	Evidence of adequate hearing to HSE category 1 or 2.	For operating construction plant, hearing loss should not exceed 30dB averaged over 0.5, 1 and 2 kHz in either ear. Where it is difficult to determine the ability of a worker to hear instructions and auditory warning signals, an operational assessment may be appropriate – conducted by the manager and safety professional.  Provided the standard is met without the use of an hearing aid, a hearing aid may be used to improve hearing further.
<b>6. General health assessment</b>	No evidence of an uncontrolled or untreated medical condition which could result in impaired cognitive functioning or sudden incapacity.	Medical or physical conditions such as diabetes or asthma are not a bar and should be controlled to ensure reduction of sudden collapse. Individual assessment and clinical judgement required on a case by case basis.  See CBH and DVLA standard for specific guidance relating to specific medical or physical conditions.
<b>7. Psychological/mental health</b>	No evidence of uncontrolled mental ill health that is likely to interfere with operation of construction plant.	Has shown evidence / reported one or more of the following: <ul style="list-style-type: none"> <li>• Deterioration in behaviour changes;</li> <li>• Changes in relationships with colleagues;</li> <li>• Irritability/sudden mood swings/hypermania;</li> <li>• Reduced performance;</li> <li>• Inability to make decisions/pay attention to detail/altered perception/short-term memory problems or concentration difficulties;</li> <li>• Currently undergoing psychiatric assessment;</li> <li>• Current symptoms of stress-related illnesses;</li> <li>• Hypomania;</li> <li>• Significant intellectual impairment.</li> </ul> Drug maintenance therapy which is not causing side effects will usually be compatible with operating construction plant providing the individual remains asymptomatic and mental alertness and concentration should not be impaired.
<b>8. Drug and alcohol screening (Optional - See 11.2.9)</b>	No evidence of alcohol or substance misuse in relation to operating construction plant at work.	

## **Annex H - Legal Requirements**

### **H.1 The Health & Safety at Work etc Act 1974 (HSWA)**

- HSWA places a duty on employers to ensure the health and safety of employees and others who may be affected by their work activities;
- Similar duties are placed on the self-employed and persons in control of premises. Employees, managers and directors also have responsibilities;
- The HSWA also places a duty on employers, where their work activity could affect the general public.

### **H.2 The Management of Health & Safety at Work Regulations 1999 (MHSWR)**

- Under MHSWR, employers and self-employed people are required to assess risks to health and safety from their undertaking;
- The risk assessment should identify what measures are needed to comply with health and safety requirements and control risk;
- The duty holder should then put in place the organisation and arrangements to ensure that those measures are properly implemented;
- MHSWR also requires employers on multi occupancy sites to co-operate with each other to ensure that all statutory provisions are complied with;
- Regulation 20 of MHSWR requires employers to "*ensure that his employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the assessment*".

### **H.3 The Construction (Design and Management) Regulations 2007 (CDM)**

- The Construction (Design and Management) Regulations place duties on duty holders including clients, designers and contractors for the planning, management and monitoring of health, safety and welfare in construction projects and of the co-ordination of the performance of these duties by duty holders;
- These include a duty on every person working under the control of another to report anything that he is aware is likely to endanger health or safety;
- The Regulations impose additional duties on clients, designers and contractors where the project is notifiable, defined as likely to involve more than 30 days or 500 person days of construction work;
- These include the duty of the client to appoint a CDM coordinator and a Principal Contractor.

### **H.4 The Equality Act 2010**

- The Equality Act became law in October 2010;
- It replaces nine separate pieces of previous legislation (such as the Race Relations Act 1976 and the Disability Discrimination Act 1995) and ensures consistency in what employers need to do to make workplaces a fair environment and to comply with the law;
- The Equality Act covers the same groups that were protected by existing equality legislation - age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity - but extends some protections to groups not previously covered, and also strengthens particular aspects of equality law;

- The Act places restrictions on pre-employment enquiries about an applicant's disability or health to those questions which relates to a person's ability to carry out a function that is intrinsic to that job;

*An example of this is where a construction company is recruiting scaffolders. It would be lawful under the Act to ask about disability or health on the application form or at interview if the questions related specifically to an applicant's ability to climb ladders and scaffolding to a significant height. The ability to climb ladders and scaffolding is intrinsic to the job.*

- Further information can be found on the Government Equalities Offices website and the Equality and Human Rights Commission website.

## **H.5 The Data Protection Act 2018**

- The Data Protection Act 2018 replaces the previous 1998 Act and incorporates the requirements of the European General Data Protection Regulation 2016;
- The new Act provides:
  - Easier access to an individual's own data;
  - A new right to data portability: it is now easier for an individual to transfer their personal data between service providers;
  - A strengthened right to be forgotten: when an individual longer wants their data to be processed, and provided that there are no legitimate grounds for retaining it, the data must be deleted;
  - A new right for individuals to know when their data has been hacked;
  - Exemptions to support businesses and enable innovation.
- Further information can be found on the Information Commissioner's website (see Annex J).

## **H.6 The Access to Medical Reports Act 1988**

- The Access to Medical Reports Act 1988 is relevant in the context of recruitment, health screening during employment, time off for medical reasons and dismissal for medical reasons;
- The Act itself, sometimes wrongly called the "*Access to Medical Records Act 1988*", is quite short - only 10 sections in all;
- This Act covers medical records held by employers as well as records held by doctors. More accurately it gives an individual the right to have access "*to any medical report relating to the individual which is to be, or has been, supplied by a medical practitioner for employment purposes or insurance purposes*";
- It also gives individuals the right to refuse consent for any medical report (as defined) to be supplied by a doctor to an employer or insurer, plus other rights;
- Employees and prospective employees should not be sent for medical examination without first being informed of their rights under the Act;
- Rights under the Act are enforceable through the normal courts, not through employment tribunals
- The Act has been modified by the Data Protection Act 2018 to the extent that the definition of health professional has been replaced by the definition in the Data Protection Act.

## **Annex I - CONIAC Position on Health Risks in Construction**

### **CONIAC HRWG POSITION ON HEALTH RISKS IN CONSTRUCTION**

The Construction Industry Advisory Committee (CONIAC) advises the Health and Safety Executive (HSE) on the protection of people at work and others from hazards to health and safety within the building, civil engineering and engineering construction industry.

CONIAC's membership is tripartite, providing representation from key industry stakeholders, including small and medium enterprises. The Chair of CONIAC is Philip White, Chief Inspector of Construction. CONIAC has four sub groups helping to take forward its work, including a Health Risks Working Group.

A **position statement** has been agreed and adopted by the CONIAC Health Risks Working Group as a list of 8 statements setting out its stance on managing health issues in construction.

### **CONIAC Health Risks Working Group POSITION ON HEALTH RISKS IN CONSTRUCTION**

1. Workplace ill health kills and ruins lives in the construction industry. Statistics indicate that a construction worker is at least 100 times more likely to die from disease caused or made worse by their work as they are from a fatal accident.
2. Managing workplace health helps employers to retain experienced and skilled workers, and it helps employees to maintain productive employment.
3. Workplace ill health is preventable - it is possible and practical to carry out construction work without causing ill health. Risks to health can be managed by modifying the process to eliminate the risk, controlling and minimising exposure, and taking precautions to prevent adverse effects.
4. Everyone involved in construction has a responsibility in managing risks to health, and all parties must take ownership of their part of the process.
5. Planning and working collaboratively will reduce risk throughout the supply chain, and at all stages of the process. Workers and their representatives must be consulted regarding the provision of occupational health services and material occupational health issues.
6. Managing health risks is no different to managing safety risks. Assessing hazards and using a hierarchy of control measures are equally appropriate when applied to health risks.
7. Checking workers' health is not a substitute for managing and controlling health risks. Monitoring should not be given priority over managing, or confused with it.
8. Helping workers tackle other "lifestyle" risks to their health is not a substitute for managing workplace health risks.

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2012-03



## **Annex J - Further Information and Guidance**

### ***Legislation***

The Health and Safety at Work etc. Act 1974;  
The Data Protection Act 2018;  
The General Data Protection Regulation 2016;  
The Management of Health and Safety at Work Regulations 1999 as amended (MHSWR);  
The Construction (Design and Management) Regulations 2007 (CDM);  
The Equality Act 2010;  
The Access to Medical Reports Act 1988;  
The Safety Representatives and Safety Committees Regulations 1977  
The Health and Safety (Consultation with Employees) Regulations 1996.

### ***Other Publications***

HSE Leaflet INDG 163 – *Five Steps to Risk Assessment*;  
HSE Leaflet INDG 232 - *Consulting Employees on Health and Safety*;  
HSE publication L73 - *A guide to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995*, HSE Books;  
*Equality Act 2010 Code of Practice* - Equality and Human Rights Commission;  
*Code of Practice Employment and Occupation* - Disability Rights Commission;  
*Guide to the General Data Protection Regulation (GDPR)* - Information Commissioner's Office;  
*An Employer's Guide to Engaging an Occupational Health Physician* - Faculty of Occupational Medicine;  
*Assessing fitness to drive – a guide for medical professionals* - Driver and Vehicle Licensing Agency;  
*The Health and Work Handbook - Patient care and occupational health: a partnership guide for primary care and occupational health teams* - Faculty of Occupational Medicine;  
*Sample Alcohol and Drugs Policy* - Construction Plant-hire Association.

## Useful Websites

ACAS	<a href="http://www.acas.org.uk">http://www.acas.org.uk</a>
Association of Occupational Health Nurse Practitioners	<a href="https://www.aohnp.co.uk/">https://www.aohnp.co.uk/</a>
BuildUK	<a href="https://builduk.org/">https://builduk.org/</a>
Commercial Occupational Health Providers Association	<a href="http://cohpa.co.uk/">http://cohpa.co.uk/</a>
Construction Plant-hire Association	<a href="http://www.cpa.uk.net">www.cpa.uk.net</a>
CITB: Construction Industry Training Board	<a href="http://www.citb.co.uk">www.citb.co.uk</a>
Constructing Better Health	<a href="http://www.cbhscheme.com">www.cbhscheme.com</a>
Driver and Vehicle Licensing Agency	<a href="https://www.gov.uk/government/organisations/driver-and-vehicle-licensing-agency">https://www.gov.uk/government/organisations/driver-and-vehicle-licensing-agency</a>
Equality and Human Rights Commission	<a href="https://www.equalityhumanrights.com/en">https://www.equalityhumanrights.com/en</a>
Faculty of Occupational Medicine of the Royal College of Physicians	<a href="http://www.fom.ac.uk">www.fom.ac.uk</a>
Government Equalities Office	<a href="https://www.gov.uk/government/organisations/government-equalities-office">https://www.gov.uk/government/organisations/government-equalities-office</a>
Health and Safety Executive	<a href="http://www.hse.gov.uk">www.hse.gov.uk</a>
Information Commissioner's Office	<a href="https://ico.org.uk/">https://ico.org.uk/</a>
NHS Health at Work	<a href="https://www.nhshealthatwork.co.uk/">https://www.nhshealthatwork.co.uk/</a>
Occupational Safety and Health Consultants Register	<a href="http://www.oshcr.org">www.oshcr.org</a>
Royal College of Nursing	<a href="https://www.rcn.org.uk/">https://www.rcn.org.uk/</a>
SEQOHS Accreditation Scheme	<a href="https://www.seqohs.org/">https://www.seqohs.org/</a>
Society of Occupational Medicine	<a href="https://www.som.org.uk/">https://www.som.org.uk/</a>
Strategic Forum for Construction	<a href="http://www.strategicforum.org.uk">www.strategicforum.org.uk</a>

## Annex K - Working Group Membership

### *Chairman:*

K Minton            Construction Plant-hire Association

### *Members:*

M Aldous            Constructing Better Health  
R Ashcroft          Hampton Knight  
S Appleyard        Select Tower Cranes/CPA  
C Bray                NCC/CITB-ConstructionSkills  
J Coombs            Constructing Better Health  
M Coyd               Skanska  
J Dobson             Costain/UKCG  
N Evans              HSE  
G Fisher             Select Plant/CPA  
P Fisher             Costain/UKCG  
C Haslam            Home Builders Federation  
E Hunt                First Care Limited  
H Hurree             Duradiamond Healthcare  
A Newell             NCC/CITB-ConstructionSkills  
M O'Connor        HSE  
T Penketh            Vinci/UKCG  
A Price               Duradiamond Healthcare  
V Robins             Costain/UKCG  
I Strudley            HSE  
I Watson             Lend Lease/UKCG  
P Wilson             UCATT  
M Winstone         Segro  
J Wood                HSE  
C Wood                CPA

### *Secretary & Editor:*

T P Watson          Construction Plant-hire Association



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