

The role of the consultant

Mr J Hind, C Chem, MRSC, Senior Consultant, Shaftesbury Health and Safety Consultants Ltd

Abstract

The Author's personal experiences in the preparation of COSHH Assessments and carrying out all sampling and LEV checks are used to highlight the pros and cons of engaging the services of a consultant.

Introduction

The paper will highlight some of the reasons why consultants are employed and review the services which they can offer.

MOTIVATION

The first and obvious question which any manager will ask, is why a large business firm will hire a consultant when it already has a number of staff who, one would think, would be experts in their particular field and, therefore, more qualified than any consultant, particularly with regard to matters relating to their own plant or company? This question seems even more relevant when, as is often the case, the consultants fee per day may exceed the weekly pay of any one member of staff. There can, of course, be several reasons why a consultant is called in, the more important of which are:-

1. **Time.** Meeting the requirements of the C.O.S.H.H. Regulations can be quite time consuming and in many companies there is no-one available who can devote sufficient time to the particular tasks without incurring significant disruption to their normal activity within the company activities. This aspect can be given additional urgency when the company in question is the recipient of an HSE improvement notice with action deadlines defined therein. In the present financial climate which has led to many companies operating with the leanest possible staff numbers, insufficient time for its remaining staff to deal with any other than the day to day business is becoming a more noticeable factor.
2. **The outside view.** It is not uncommon for management and/or employees to be so close to, or familiar, with a process that they do not appreciate all the ramifications of C.O.S.H.H. Someone from outside who will not be 'imprinted' with the daily routine of the process can by his very unfamiliarity highlight problem areas and often as a result of his experience with similar situations provide succinct or cost effective solutions. A consultants ability to ask why, where an

employee or manager could feel he would lose credibility in asking the self same question, is a major asset in penetrating through a confusion of factors and being able to recognise the main issue, thus making recommendations which will enable the simplest solution to be provided.

In many areas of health and safety, (C.O.S.H.H. included) the most common answer to a question is 'I have always done it this way, Guv'. Why?

3. **Company politics.** This is perhaps the less justifiable of the reasons and not so likely to be encountered in the small company but in the larger organisation it is a surprisingly common reason for a consultant to be involved, although he may not initially be aware of this. Probably the most common 'political' involvement arises when a manager with responsibility for implementation of C.O.S.H.H. believes that one or more aspects of the implementation would not be accepted by his executive management (e.g. provision of finance for replacement of antiquated ventilation equipment) if that recommendation came directly from himself but that it would be provided if the recommendation was from an independent body. This can clearly be a sensitive area for a consultant to become embroiled in, which the proper professional will sidestep by being scrupulously honest and presenting the facts as he sees them, leaving political manoeuvres to the recipient of the report.

4. **Financial.** Consultancy fees will vary from the consultants to consultant and the time for which they are involved but will range from a few hundred to several thousand pounds. Compared to a piece of capital equipment where a return on investment can often be reasonably accurately calculated the outlay for employment of a consultant is all

too often viewed as a necessary evil in order to meet the requirements of an unwanted regulation. Most companies, however, do not hesitate to purchase Fire Insurance and Public Liability Insurance, with every hope that they will never need to call upon the back-up for which they are paying. As legislation becomes more comprehensive however, and litigation more common, the penalties and compensation which could be incurred if C.O.S.H.H. is inadequately implemented could make the outlay on consultants fees seem modest indeed.

When the work being carried out involves use of specialised equipment e.g. for air sampling or LEV testing, the consultant will provide this himself and therefore the company will not have to find the capital to purchase relatively expensive items for which it may only have occasional use and which in any case may be unfamiliar to the persons in the company who would have to use it.

5. Expertise. Health and safety legislation is now largely driven from the EEC and a common element to be seen in all this new law i.e. C.O.S.H.H., Noise at Work, Electricity Regulations etc., is the requirement that persons undertaking the actions required by the various regulations i.e. Assessments, Monitoring and Testing etc shall be undertaken by a 'competent person or agency'. What does the term mean? The real test is whether or not that person or agency is capable of withstanding vigorous cross examination in the high court, as a result of a civil claim being made against a company or organisation. Should employees become ill and issue proceedings against their employers alleging that the illness is a result of their activities at work and that it is occupational by origin, then their solicitors will ask for the relevant discoverable documents, one of which will be the written assessment made under the C.O.S.H.H. Regulations. Lawyers

advising the Plaintiff will serve a subpoena on the person whose signature appears at the end of the written assessment and if the company has asked, for example, the maintenance supervisor to prepare the assessment and he is not a chemist or qualified occupational hygienist and has no experience in the prevention or investigation of occupational diseases then Plaintiff is clearly likely to succeed against the company and the company itself could face further legal action taken this time, by the enforcing authorities, since it can be said to be in breach for the Regulations for not using a competent person to prepare the assessment.

EXECUTION

The extent to which a consultant or consultancy will be involved will depend on some or all of the above factors together with the consultants own skills and limitations. The skills or competence, required to carry out an assessment usually involves training and background which will make the same person competent to carry out air sampling but it may not for example be adequate to provide sufficient competence to carry out a full LEV test and examination. Because of the importance of the emphasis on competence, both the consultant and the hiring company must be able to demonstrate that the work carried out and documented will stand examination.

The physical end product of the consultants time on site will be documentation in the form of an assessment, air sampling/monitoring report, or LEV test and check report. Legislation is becoming the same throughout the EEC and the Inspectorate is likely to become part of a European Health and Safety Authority (this has already been approved)

with all inspectors working in the same manner. The HSE are already asking for inspection of a written C.O.S.H.H. Assessment and it is important that these are professional documents written by competent people. The form of the documentation will vary from consultant to consultant although most are quite happy to provide the documentation in specified formats e.g. using the Croner documentation system and some will provide the information in the form of floppy disc for implementation on a computer system.

As well as the written information provided however, a consultant will usually have been involved in much detailed discussion with a wide section of the company's staff/workforce and many aspects of the work activity will have been reviewed verbally during his visit.

In addition to the practical requirement of Regulations 6-10, many consultancies offer training programmes to assist in compliance with Regulation 12. The training will clearly vary depending on the type and size of the target audience but can generally be tailored to the particular requirements of the company concerned, given that the consultancy involved has the expertise to cover all the elements required.

COMPLETION

Use of a consultant is often seen in the same light as the hiring of Dynorod i.e. (a) find a problem, (b) hire outside help (c) pay and then forget until the next problem.

C.O.S.H.H., as with most new legislation, is not, however, a 'once only' operation and if the initial contact between the Consultant and the Hiring Company is followed by a professional, but friendly, continuous relationship, this can provide long term benefit to both parties.