

Provision & assessment of technically competent management at licensed waste management facilities

Introduction

This guidance applies only to the assessment of technical competence of operators of sites applying for, or holding, a waste management licence (either a site licence or a mobile plant licence). It is not applicable to sites permitted under PPC where current guidance on technical competence at PPC sites remains relevant.

The requirement for a licence holder to provide technically competent management at a site is part of the test of whether an applicant is a “fit and proper person” to hold a waste management licence. The term “fit and proper person” is defined in section 74 of the Environmental Protection Act 1990 (“the 1990 Act”).

Section 74(3)(b) of the 1990 Act deals with technical competence. It provides that a person shall be treated as not being fit and proper to hold a waste management licence if it appears to SEPA that “the management of the activities which are or are to be authorised by the licence are not or will not be in the hands of a technically competent person”. From this it is clear that the technically competent person has to be in a position to manage the day-to-day activities authorised by the licence and carried out at the licensed site.

It is up to the applicant or licensee to demonstrate to SEPA’s satisfaction how the particular nature of his management structure and control mechanisms satisfies the requirement to have technically competent management at any given site.

Technically competent management of a licensed site may be provided by more than one person. Therefore operators can provide control of day-to-day activities through a group of technically competent staff so that the requirement for on site presence of a technically competent person may be shared.

Alternatively, the company structure may mean that day-to-day management is not delegated down to the site but is exercised at a higher level. This could mean that more than one site was under the day-to-day control of the same individual or group of individuals.

Each person identified by the applicant or licensee as providing technically competent management for the activities at the site will need to demonstrate their competence to SEPA .

Whatever the approach adopted, a technically competent person should be present on site for an appropriate period of time to ensure that the site is operated effectively and in compliance with licence conditions. SEPA considers that in most cases the minimum period of time a technically competent person should be on site is 25% of the operating hours of the site. A site would be considered operational whenever it is either accepting or removing waste, or undertaking any process involving waste other than its storage.

SEPA may agree to reduce the minimum period of time a technically competent person should be on site in respect of small scale civic amenity sites (those accepting less than 5,000 tonnes of waste per year) and other small facilities for which the operator can demonstrate that adequate management controls can be provided through alternative means.

When can SEPA check for Technical Competence?

SEPA will check for technical competence when either:

- A new licence application is received.
- The management of the licensed activities comes into the hands of a different person.
- An application to significantly modify the licence (which could mean that the site had ceased to be in the hands of technically competent persons) is received.
- An application for a full or partial transfer of a licence is received.

Determinations of fit and proper status may also be made in connection with the possible full or partial revocation or suspension of a licence under section 38 of the 1990 Act. In particular, where the holder of a licence has ceased to be a fit and proper person by reason of the management of the activities having ceased to be in the hands of a technically competent person the licence may be suspended or revoked, in both cases in full or in part.

If a site was deemed to have technically competent management under the previous legislation then that should continue to be the case, provided that none of the scenarios described above apply. The recent change in legislation, relating to the assessment of technical competence, does not mean however that SEPA will automatically reassess the status of the management of existing licensed sites.

How will SEPA assess Technical Competence?

Prior to the introduction of the Waste Management Licensing (Scotland) Regulations 2011 (“the 2011 Regulations”), most managers could only demonstrate technical competence by obtaining the relevant certificate from WAMITAB (the Waste Management Industry Training and Advisory Board). This is no longer the case.

SEPA will continue to recognise certificates of technical competence (“COTC”) issued by WAMITAB as evidence of technical competence. SEPA will also recognise the relevant vocational certificates (SVQ and NVQ) required to obtain a COTC as being evidence of technical competence in their own right.

Providers of alternative vocational training schemes may also seek approval from SEPA for completion of their schemes to be accepted as sufficient evidence of technical competence. Such schemes need not be limited to assessing individual managers’ competence but could also involve assessment of an organisation’s technical competence across all their waste management licensed facilities. This guidance will be updated to identify such alternative training schemes that have been approved by SEPA.

Operators should be technically competent to operate their facility. The operator's wider management system should contain mechanisms for assessing and maintaining technical competence. The competence of individuals (or the organisation) should form part of those management systems.

The development of industry led competence schemes is encouraged. All schemes should be based predominantly on qualifications accredited by the Scottish Qualifications Authority, or other relevant accreditation body, be based on vocational qualifications where these exist and agreed with SEPA.

In the majority of cases waste management facility managers will be expected to hold the relevant COTC, SVQ, NVQ or equivalent certification from another approved scheme.

The criteria on which SEPA will assess these alternative schemes will build upon current standards and mirror the approach taken by the Environment Agency in England and Wales as far as is practical. Any schemes developed in addition must be:

1. Effective in developing and demonstrating technical competence across a sector or sectors and provide equivalent competence with other schemes approved for the sectors(s).
2. Risk-based and proportionate.
3. Based on good operational practice and appropriate legislative requirements.
4. Able to provide mechanisms for demonstration and assessment of individual or corporate competence or both.
5. Based consistently on National Occupational Standards where these exist.
6. Able to develop the skills required to deliver the objectives of Scotland’s Zero Waste Plan and associated legislation.
7. Applicable to waste management operations, or clearly state the sectors for which the scheme is designed.
8. Inclusive, and must not prevent new entrants from developing necessary competences in the workplace.

However, in a small number of cases where such qualifications are not present SEPA will make a bespoke assessment of technical competence based on other factors. SEPA's bespoke assessment will be limited to operators who wish to hold a single site licence only. The assessment will consider both the knowledge and experience of the applicant in respect of general waste management law and practice, and the specific type of facility they wish to operate, as is described in more detail below. It will focus on the specific issues relating to operating a single site, small-scale facility.

Bespoke SEPA Assessment of Technical Competence

This is only open to operators who hold, or have applied for, a single site licence (i.e. it does not apply to mobile plant or multiple site licence applicants/holders). Assessments made this way apply only to the site for which the assessment was made.

SEPA's assessment will be based on evidence provided by the applicant or licensee in support of his claim that the management of the activities will be in the hands of a technically competent person. In assessing such submissions SEPA will take into account the scale and type of operation and the nature of the wastes involved.

Knowledge may be demonstrated through evidence of appropriate formal qualifications, or through evidence of practical application of the legislation to waste management activities, in particular the licensing requirements and the Duty of Care.

A person will normally be required to demonstrate that they have not less than two years of relevant experience in waste management at a supervisory level (i.e. supervision of either the waste management activities themselves or of other individuals carrying out those activities). Evidence of this should be presented in a statement of relevant experience. This statement should provide details of the individual's employment record, including the location of all posts held that are relevant to their application, the dates between which they were employed, the duties they undertook, and details of their supervisory role. The applicant should also supply details of the operations undertaken at each of the facilities at which they have worked. An example of the format and information expected to be included in such a Statement of Experience is presented in Appendix 1.

Additionally two referees must be provided to support the details set out in the Statement of Experience i.e. referees who are in a position to vouch for the contents of the Statement.

Where an applicant is considered to be not technically competent based on their submission they will be invited for an interview to assess the merits of their application. This interview will be chaired by a member of SEPA's National Operations Waste Unit.

Monitoring for continuing Technical Competence

SEPA will keep under review the extent to which management of waste activities on sites remains in the hands of a technically competent person as part of their general monitoring of activities carried out under the licences for those sites.

The licence holder must provide a list of the technically competent persons who are involved in the management of each licensed site, and for this to be kept updated as appropriate.

If necessary, this information will be required by means of a licence condition.

Appendix 1 - Example Layout for Statement of Experience

Name

Date of Birth

Address

Contact Details

Description of Site to be Managed

- *Provide a description of the activities for which you wish to be assessed as a technically competent manager*

Qualifications / Training Relevant to Application

- *Detail qualifications and formal training relevant to the specific operations of the site in question and / or waste management in general and the date achieved.*

Work Experience

- *Detail relevant work experience; including dates of employment, details of the operations undertaken at each of the facilities at which you have worked, your main duties and any supervisory or management experience.*
- *Identify aspects of your work experience that are relevant to the operation of the site you wish to manage.*
- *Provide details of any experience or responsibility for compliance with waste management licence conditions or Duty of Care.*

Additional Information

- *Provide any additional information you wish to be considered in respect of your application (e.g.) professional memberships*

Referees

- *Provide contact details for two referees able to confirm the details given in your statement of experience.*