

MAKING TRAINING & COMPETENCE WORK

WHAT ARE THE KEY DIFFERENCES FOR SMEs OVER CORPORATIONS?

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Training and Competence (T&C) was introduced into UK financial services back in the 1990s along with requirements around professional qualifications. The purpose of the rules around T&C was to ensure that individuals providing advice to retail consumers were competent to do so, therefore minimising the risk of detriment to the customer, the firm or both. Since then, T&C has gone through a variety of iterations depending on who the regulator of the day was; introduced under LAUTRO in 1993, updated by the PIA in 1997, taken forward by the FSA in 2001 and then subsequently given more prominence by the FCA in 2014.

All firms are required to ensure that their employees are competent, and remain competent for their role, but for those firms/individuals that are formally subject to the FCA's TC rulebook, this provides more guidance around the components a firm might like to include. It is both the responsibility of the individual to meet the required standards laid down by the firm and for the firm to decide what those standards are.

The TC rulebook itself helps firms focus on providing a structured T&C framework to those that need it. The T&C rules themselves detail the obligations on firms to ensure that their internal arrangements cover the full range of activities necessary to ensure individuals become and remain competent throughout their employment lifecycle with the firm. However, because T&C focuses on the individual and the activities they undertake in their role, the type and size of the firm the individual works for is unimportant in the eyes of the regulator. Therefore, whether the firm is a major global corporation or a relatively small SME is irrelevant from the perspective of T&C and ensuring employee competence. However, experience tells us that the larger corporations tend to have very structured processes, with frequent activities and assessments making up their T&C framework. Whereas much smaller advice firms will have a less structured approach to T&C mainly because it is likely that all staff are in one office location, with many of the team involved in each of the advice-giving processes.

This raises differing conundrums for both large and small firms because, from a regulatory perspective, T&C is driven by services offered and not by firm size. Aligned to more principles-based regulation, the TC rulebook allows firms (within boundaries) to decide for themselves the type, level and complexity of the arrangements (which surely is a good thing?). In practice, however, the activities firms put in place to ensure employee competence in roles captured by T&C are largely the same.

Stage of Employee Lifecycle	Employee Activity	Firm Activity
Recruitment	<ul style="list-style-type: none">• Provide qualifications & references	<ul style="list-style-type: none">• Check experience & qualifications• Seek satisfactory references• Complete fitness & propriety checks• Establish competence gaps v intended role• Create training plans to ensure employee competence
Induction	<ul style="list-style-type: none">• Attend employer induction programme as defined by employer and pass any relevant knowledge tests and/or skills-based assessments	<ul style="list-style-type: none">• Provide oversight of all internal processes• Educate individuals on the organisation, products and services• Induct individuals into the use of all related technology solutions• Provide input and test knowledge against relevant e-learning requirements• Introduce individuals to relevant customer journeys and accompanying process requirements
Gaining Competence	<ul style="list-style-type: none">• Successfully complete T&C activities, CPD &, if necessary, qualifications	<ul style="list-style-type: none">• Ensure T&C activities are completed on time & to standard• Manage exceptions (breaches)• Ensure T&C supervisors are also qualified, trained, undertake CPD & are monitored
Maintaining Competence	<ul style="list-style-type: none">• As above	<ul style="list-style-type: none">• As above
General		<ul style="list-style-type: none">• Design T&C scheme, i.e. activities by stage, sign off procedures, exceptions processes etc.• Ensure governance & oversight• Produce & use MI to ensure compliance with TC Rulebook• Report annually to the regulator &, by exception, for breaches• Regularly review the appropriateness of the scheme & adjust as necessary

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In larger firms, the activities within T&C schemes may vary for different roles, e.g. investment adviser, mortgage adviser, investment manager and complaint handler (to name but a few), however the overall design of a firm's T&C framework will largely remain the same. However, with larger numbers of employees in any given T&C framework, larger firms tend to provide more resources in support of the scheme and a greater focus on a more regular range of assessment activities. By contrast, although smaller firms, such as SMEs, will likely have fewer numbers of employees in their T&C scheme, they still have the same regulatory responsibilities as larger firms. In our experience, smaller firms have to focus harder on "not just doing it because they have to". With smaller numbers, and usually inherently more flexibility, the trick is to extract as much commercial benefit as they can from their T&C framework, focusing on ensuring the framework is configured to improve competence and business performance, not just tick the regulatory box.

In our opinion, smaller organisations now have an ideal opportunity to review and enhance their approach to T&C and employee competence. The opportunity comes in the guise of the incoming Senior Managers and Certification Regime (SM&CR). SM&CR is, or at least should be, well known to firms across financial services. It arguably represents the greatest regulatory shake-up for a generation across the wider financial services industry. Importantly, with a go-live date of 9th December 2019, it should be 'front of mind'

for firms. (Banks and insurance firms went live in 2016.)

Worksmart have been working intensively in the SM&CR 'space' for over three years, supporting both the major industry trade bodies and customers alike in preparing for the incoming rules. Our trade body partners' experience is that firms, large and small, have invested heavily in their preparations - which is good news.

SM&CR has three key elements to it and the area that most definitely crosses over with T&C is the Certification element of the regime. Employees in roles that can cause significant harm to either customers, the firm or both become part of the firm's internal Certification Regime. Once in the Certification Regime, employees are assigned one of the eight Significant Harm Functions (SHF) roles defined by the regulator.

Certification Regime – Significant Harm Functions	
CASS oversight	Proprietary trader
Significant management	Functions requiring qualifications
Managers of certification employees	Material risk-takers
Client-dealing	Algorithmic trading

There is no direct overlap between employee roles in T&C schemes and those classed as SHFs. Indeed, some firms subject to SM&CR who with employees in identified SHF roles, do not need a T&C scheme due to their regulatory permissions and the products and services they provide. However, for many firms, SMEs included, there is a clear overlap between the two independent (but complementary) sets of regulatory requirements.

Additionally, the Certification Regime brings a requirement for firms to operate an "Internal Certification Process" to ensure that there is a formal process of assessment that the firm undertakes against every individual caught by the regime. This must be done annually. To achieve this, the firm needs to ensure, and evidence to themselves, that employees in certification are competent to undertake their role, that they are both trained in and abide by the conduct rules and that they are Fit and Proper. Finally, under SM&CR, a senior executive in each firm is responsible for the firm's certification regime. They are personally accountable to the regulator for its effective operation. Therefore, whilst they may not personally sign off the annual certification process, they remain accountable. From our experience of working in the banking sector, which implemented SM&CR in March 2016, this has focused minds!

Therefore, the question is how to capitalise on the opportunity that SM&CR provides for firms that, in the past, may have had challenges in delivering a robust T&C framework. Using our experience from working with customers implementing certification who also have T&C schemes, we suggest following three simple steps:

1. Review activities: Analyse the activities that create and manage employee competence in the T&C scheme. Do the same for the activities designed to underpin competence in your certification regime. Look for overlapping activities, i.e. activities undertaken in T&C that could be used to enhance the evidence base for employee competence in certification, and vice-versa, e.g. using CPD records or qualifications from T&C scheme in the certification regime. Also, consider activities, currently not used by either that could be used to enhance the 'evidence base', e.g. although performance appraisal records are used in many firm's certification regimes, they are not used by

all. In those situations, appraisal records could be a very good source of evidence for both T&C and the certification regime. Doing so will prevent duplication and potentially provide opportunities for enhancing the 'evidence base' in each scheme/regime. Of course, as part of this review if evidence gaps are identified, consider activities that can enhance both schemes.

2. Consider resourcing: Don't focus solely on activities. Also, consider the individuals involved in those activities. For example, line managers usually conduct performance appraisals. If appraisal records can be used as part of the evidence base in both T&C and certification, this can reduce the workload required to administer the schemes.

3. Make Change: Use the results of this analysis to win support for updating the activities in your T&C scheme, and this will naturally help you build up your evidence set for your internal Certification Regime.

T&C schemes and Certification Regimes seldom align perfectly, however, experience has taught us that there is sufficient overlap between them in many firms, smaller firms included, to recommend using the activities within each to enhance and sometimes streamline the other.

As stated earlier, although the 'go-live' date for SM&CR is 9th December 2019, there will be a strong focus on implementing Certification in readiness for the first annual deadline in 2020. By using T&C activities as the start point for considering how certification can be evidenced, SM&CR project teams can be given a 'fast start'. In return, however, the supplementary activities that no doubt will be used for evidencing certification can be used to bolster the evidence base for ensuring employee competence in T&C. For SMEs where resource is always at a premium, SM&CR provides a golden opportunity.

