

POLICY FOR HEALTH AND SAFETY

PART C ARRANGEMENTS

SECTION 32

HEALTH AND SAFETY IN CONSTRUCTION

2013

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1. INTRODUCTION

Construction, if managed properly, can safely produce better and safer workplaces and other environments. It is also an inherently high risk activity with a national rate of serious and fatal accidents much higher than most of the council's activities. It involves the use of plant and equipment that can be dangerous, includes high risk activities such as working at height and in excavations, and can involve the release of harmful substances, such as lead from paint and asbestos from building materials into the air.

The subject of construction health and safety is extremely complicated, and a specialist area. For this reason, this arrangement is **not** intended to be a comprehensive document. Its purpose is to highlight what Senior Managers need to know. Detailed management of construction projects **must** be carried out by competent people. It is the responsibility of Directors to make sure that they appoint competent project managers from within or outside the organisation as necessary. If you are unsure of your level of competence to manage a construction project, it is likely that you do not have the necessary knowledge and will need to appoint a qualified person to manage the project.

Safety in construction is the responsibility of everyone who has any involvement in construction projects, including the client and designer, as well as the people employed to actually do the construction work. The law on health and safety in construction has recently been revised and significant changes have been made.

The purpose of this section of the council's Health, Safety and Welfare Policy is to explain the new law and how it applies to the council's work. It has been produced to

- Establish the council's policy
- Provide information to Chief Officers of what this means for the council
- Contain general information about the duties imposed by CDM

2. THE CDM REGULATIONS – OVERVIEW

The Construction (Design and Management) Regulations (CDM) provide a framework for all non-domestic construction work, with the aim of ensuring safety from 'cradle to grave', which means from the point at which a project is first conceived, through the various stages, of procurement, design, planning, construction, use, maintenance and finally demolition.

Any aspect of any stage must be considered, including, for example, The method of construction used, materials chosen for construction, the activities and decisions made by all the duty holders, how the building will be maintained (including cleaning) during its working life, The safe method of demolition and disposal of materials at the end of the building's life.

The key points of the regulations are:

- They apply to **all** construction work, even small projects,
- Some projects need to be notified to the HSE. These are projects lasting more than 30 days or involving more than 500 person days of work.
- If a project is notifiable, additional duties apply. They are:
 - To appoint a Principal contractor
 - To appoint a CDM co-ordinator
 - To notify the project to the HSE (F10 Form)
 - To ensure that a construction phase plan and a Health and Safety file is produced

Most of the clients', designers' and contractors' duties remain whether the project is notifiable or not,

3. WHAT THIS MEANS FOR THE COUNCIL

Many of the council's functions include some involvement in construction projects. For example:

- Headteachers commissioning building work to improve a school (a client)
- Architects and Building Inspectors making requirements of the construction requirements of a new building, (a designer)
- Planning Officers specifying materials and styles of construction for buildings (a designer)

The CDM regulations make it clear that in all construction projects, some key duty holders exist. The duty holders most likely to be within the council are the client and the designer.

A Client is a person who carries out the project or seeks or accepts the services of another which may be used in carrying out the project

A Designer is any person who contributes to, or has overall responsibility for, any part of the design, for example drainage engineers designing the drainage for a new development.

4. WHEN A COUNCIL OFFICER IS A CLIENT

The client should have the biggest influence over how a project is run. The client usually controls the budget and the amount of time available to deliver the project. The client's duties include taking reasonable steps to ensure that suitable management arrangements are in place throughout the life of the project so that the work can be carried out

safely and without risk to health. The arrangements put in place should focus on the needs of the particular job and should be proportionate to the risks arising from the work.

The client must also allow suitable resources (including time and money) for the work to be done safely. This was a specific aim of the Health and Safety Commission in revising the CDM Regulations.

For all projects, the client has the general duties outlined in appendix 3. For larger projects (likely to involve more than 30 days or 500 person days of work, for example 50 people working over 10 days), the client must also ensure that the project is notified to the HSE, and that this notification is made, and the extra duties are complied with.

5. WHEN A COUNCIL OFFICER IS A DESIGNER

The general duty of a designer is to consider the health and safety at all stages of the construction project, and into the future use and maintenance of the building. This could include headteachers, planning officers and building control inspectors. When council officers are designers, they must:

- Make sure that they are competent and adequately resourced to address the health and safety issues likely to be involved in the design
- Check that clients are aware of their duties
- When carrying out design work, avoid foreseeable risks to those involved in the construction and future use of the structure, and in doing so, they should eliminate hazards (so far as is reasonably practicable, taking account of other design considerations) and reduce risk associated with those hazards which remain
- Provide adequate information about any significant risks associated with the design
- Co-ordinate their work with that of others in order to improve the way in which risks are managed and controlled.

6. KEY QUESTIONS FOR MANAGERS

Managers or other officers responsible for construction projects must satisfy themselves of a number of key points before they start a construction project, however large it is.

Has the client been clearly identified? – sometimes it is unclear who the client is, but each client must be aware of their status and the responsibility they carry. Guidance on this can be found in the HSE

document L144 – Managing Health and Safety in Construction contains information on this issue.

Are adequate resources (funding and time) allowed? – this is one of the main duties of clients, and was a focus of the Health and Safety Commission in revising the CDM Regulations. Allow some extra time, and contingency funding.

Has the designer (or designers) been identified and are they competent? – this is another key duty holder likely to be part of the council's function. Identify everyone with any input to the plans, and make sure they are aware of their responsibilities.

Is the project notifiable (more than 30 days or 500 person days)? – this is the trigger for notifying the project to the HSE, and it is an offence not to do so. It is also the trigger for various other duties, including the appointment of CDM Co-ordinator, and the production of a Construction Phase Plan.

Have suitable monitoring, communication and control arrangements been agreed and clearly recorded between duty holders? – as with any complicated activity, communication is vital. For more information about the need for this, contact the Health and Safety Unit.

7. DEFINITIONS

Construction work - The carrying out of any building, civil engineering or engineering construction work including:

- Construction
- Alteration and conversion
- Fitting out and commissioning
- Renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure or the use of corrosive or toxic substances)
- Decommissioning, demolition or dismantling

Construction phase - the period of time starting when construction work in any project starts and ending when construction work in that project is completed;

Construction phase plan - a document recording the health and safety arrangements, site rules and any special measures for construction work;

Contractor - any person (including a client, principal contractor or other person referred to in these Regulations) who, in the course or furtherance of a business, carries out or manages construction work;

Design - drawings, design details, specification and bill of quantities (including specification of articles or substances) relating to a structure, and calculations prepared for the purpose of a design;

Designer - any person (including a client, contractor or other person referred to in these Regulations) who in the course or furtherance of a business

- prepares or modifies a design; or
- arranges for or instructs any person under his control to do so, relating to a structure or to a product or mechanical or electrical system intended for a particular structure; and a person is deemed to prepare a design where a design is prepared by a person under his control;

For the purposes of CDM, a project is notifiable if the construction phase is likely to involve more than 30 days or 500 person days, of construction work.

8. FURTHER INFORMATION AND ASSISTANCE

Careful management of construction projects is vital and it is fundamental that duty holders have or obtain a high degree of competence in order to comply with the CDM Regulations. For this reason, it is almost certain that further information will be needed.

- HSE book L144 is an approved code of practice, which gives clear guidance on CDM duties and how to comply with the law. It is available from HSE books <http://www.hsebooks.com/Books/default.asp> or to order from book shops ISBN 978-0-7176-6223-4
- The HSE has a dedicated Construction section to its website. This contains detailed guidance and links to other useful sites. To see this, visit:

www.hse.gov.uk/construction
- Competence is a key aspect in managing construction projects. A good source of information for any council officer likely to become a duty holder is the relevant professional body, for example:
 - Architects - <http://www.ribafind.org/>
 - Building surveyors - <http://www.rics.org/>
 - Planning inspectors - <http://www.rtpi.org.uk/>

- For general information about CDM and advice on how the CDM Regulations apply to projects, contact the council's Health and Safety Unit on **020 8359 7955**

APPENDIX 1 – THE CONSTRUCTION REGULATIONS

The new CDM regulations have been expanded to include elements of the now revoked 'Construction (Health, Safety & Welfare) Regulations. These new regulations cover:

- Safe places of work, e.g. safe access to and egress from every place of work.
- Good order and security, e.g. tidy and clean site with secure boundary.
- Stability of structures, e.g. new or existing structures are liable to collapse.
- Demolition and dismantling, e.g. providing a detailed written method statement for safe demolition.
- Explosives, e.g. Persons are not exposed to projected or flying material.
- Excavations, e.g. proper support to prevent danger of collapse.
- Cofferdams and caissons, e.g. suitably designed and constructed.
- Reports of inspections, e.g. written reports showing details of regular inspections, i.e. excavations.
- Energy distribution installations, e.g. buried services and overhead electric power cables.
- Prevention of drowning, safety arrangements for persons working near or over water.
- Traffic routes, e.g. provision and maintenance of defined, segregated and safe pedestrian and vehicle routes.
- Vehicles, e.g. the safe operation and movement of vehicles.
- Prevention of risk from fire etc, e.g. preventing the risk of fire or explosion.
- Emergency procedures, e.g. Fire evacuation plans and rescue plans, including training.
- Emergency routes and exits, e.g. suitable and sufficient defined safe means of escape.
- Fire detection and fire-fighting, e.g. adequate and suitable fire alarm and fire fighting equipment, including training.
- Fresh air, e.g. provision of clean air, i.e. free from dust or fume.
- Temperature and weather protection, e.g. adequate and suitable arrangements for persons working in extremes of temperature.
- Lighting, e.g. provision of adequate and suitable lighting, i.e. escape routes, corridors and stairs.

APPENDIX 2 - THE CDM REGULATIONS IN FURTHER DETAIL

The regulations are divided into 5 parts:

Part 1 - deals with matters of interpretation and application. The Regulations apply to all construction work in Great Britain and to employers and the self-employed.

Part 2 - general management duties which apply to **all** construction projects, including those which are not notifiable.

Part 3 - additional management duties which apply to projects above the notification threshold (projects lasting more than 30 days, or involving more than 500 person days of construction work). These additional duties require particular appointments or particular documents which will assist with the management of health and safety from concept to completion.

Part 4 - applies to all construction work carried out on construction sites, and covers physical safeguards which need to be provided to prevent danger. Duties to achieve these standards are held by contractors who actually carry out the work, irrespective of whether they are employers or are self employed. Duties are also held by those who do not actually carry out construction work themselves, but control the way in which the work is done. In each case, the extent of the duty is in proportion to the degree of control which the individual or organisation has over the work in question.

This does not mean everyone involved with design, planning or management of the project legally must ensure that all of the specific requirements in this section are complied with. They are only responsible for the work they have significant control over. For example, contractors carrying out excavation work are normally responsible for ensuring that the excavation is safe to work at, but if a client specifies that it is dug and supported in a particular way, then the client will have a duty to ensure their instructions are within the legal requirements.

Contractors must not allow work to start or continue unless the necessary safeguards are in place. For example, a brickwork contractor should not cause or permit workers under his control to work on an incomplete scaffold, even if providing the scaffold is someone else's responsibility.

Part 5 - covers issues of civil liability; transitional provisions which apply during the period when the Regulations come into force, and amendments and revocations of other legislation.

Procurement (PFI and PPP)

These and other similar forms of procurement are included for the first time. CDM 2007 imposes explicit requirements upon **Project**

Originators e.g. Hospital Trusts, Education Authorities, Housing Associations etc, these are legally the client at the start of the project, and should ensure that a CDM co-ordinator is appointed and the HSE notified during the early design and specification phase.

The **Project originator** cannot wait until someone else, e.g. the Special Purpose Vehicle (SPV), takes over the client role. The role and responsibilities of the client can transfer from one party to another as the project proceeds. This is normally the case when the SPV is appointed to carry out detailed specification and delivery of the project. Any such transfer should:

- Be clear to, and agreed by all those concerned;
- Be clearly recorded;
- Provide the practical authority to discharge the client's duties.

If the project originator does not wish to remain the client in respect of the regulations after the SPV has been appointed, they should make use of the election facility detailed in regulation 8. without such an election, the project originator may retain some client responsibilities.

Everyone has the duty to:

- Check and confirm their own competence
- Co-operate with others and co-ordinate their work
- Report obvious risks
- Take account of and apply the general principals of prevention.

SCHEDULES

There are 3 Schedules, these define the precise requirements relating to some of the regulations, and include:-

Schedule 1 - the details that must be included in the F10 notification to the HSE.

Schedule 2 -the specific requirements relating to:-

- Sanitary conveniences
- Washing facilities
- Drinking water
- Changing rooms and lockers
- Rest facilities.

Schedule 3 - the details that must be included in a report of inspection e.g. excavations or scaffolding.

APPENDIX 3 - DUTIES IMPOSED BY CDM

The CLIENT (A client is a person who carries out the project or seeks or accepts the services of another which may be used in carrying out the project)

The client's duties are now greater than under the 1994 regulations, with the aim of avoiding situations where clients have put too much pressure on contractors in the past and thereby compromised health and safety. Clients are accountable for the impact they have on the health and safety of the project at any stage (design, construction, use, maintenance, and demolition). **The client's duties are:**

- Providing pre-construction information to designers and contractors.
- Allowing sufficient time and resources for all the stages. The pre-construction information shall include the minimum time which will be allowed to the contractors appointed by the client for planning and preparation for construction work.
- Ensuring suitable management arrangements for the project, including welfare facilities.
- Ensuring that construction work does not start unless there are suitable welfare facilities and a construction phase plan is in place.
- "The Client has one of the biggest influences over the way the project is run." – because of this they will be made accountable for the impact their approach has on the health and safety of those working on or affected by the project.
- On notifiable projects, the client **must** appoint a CDM Co-ordinator.
- Clients can also take on, intentionally or unwittingly, additional responsibilities if they specify materials or methods of working will be seen as "Designers" and if they directly manage or carry out construction work will be seen as "Contractors".
- In PFI and PPP works the project originators are the client and should appoint a CDM Co-ordinator at the early design stage and ensure the HSE are notified of the project. At a later stage the client may change to someone else, e.g. Special Purpose Vehicle (SPV). Any such transfer should be clear to and agreed by all, recorded and provide the practical authority to discharge the client's duties.
- If there is a doubt as to who is the client, because it has not been clearly set out, then all possible contenders will be considered to carry the client's duties under the regulations.
- Appoint the relevant members of the project team early enough to allow them to contribute to risk reduction.
- Ensure that designers, contractors and other team members that they propose to engage are competent, that they have sufficient time and resources to carry out the work and that

there is good communication and management arrangements in place

- The detail of written assessment should be in line with the risks of the project.
- Retain and makes the health and safety file accessible.
- Ensure that contractors have made suitable welfare arrangements for the whole of the construction phase.
- Provide designers and contractors with project specific health and safety information and that the pre-construction information provided is sufficient to ensure that significant risks during the work can be anticipated and planned for. More detail in Appendix 2 of the guidance.
- Ensure that the construction phase does not start until the principal contractor has prepared a suitable construction phase plan along with suitable welfare facilities to be present from the start of the work.
- Make periodic checks through the life of the project to ensure all the correct arrangements are in place.
- As most clients are not likely to be experts in construction work, they are required to take reasonable steps to ensure that there is suitable management of the project and that they are proportionate to the risks of the job. A good way of checking is to ask the relevant members of the team to explain their arrangements, or to ask for examples of how they will manage these issues during the life of the project.

THE DESIGNER

A designer is anyone who (amongst other things) designs or specifies (or prohibits) the use of any article, substance or system of construction. From a Local Authority perspective, it is likely that architects, surveyors and planners will all some times fall under the definition of designer for the purposes of the regulations.

The purpose of designers' duties is to design for the safety and health for those that build, use, maintain and demolish a structure. Where it has not been possible to remove all hazards at the design stage, designers should tell others about any significant risks which remain.

THRESHOLDS FOR NOTIFICATION

Whilst all non-domestic construction activities are covered by the regulations, **a construction project is notifiable if it involves more than 500 person days of construction work or a total of 30 days of construction work.** Holidays and weekends do not count if no construction work takes place on these days.

Demolition is not immediately notifiable, as it was in the 1994 Regulations, but it is a 'construction activity' so will be notifiable if it

passes any of the triggers. All activities, whether notifiable or not, are still subject to the principles of the regulations.

THE PRINCIPAL CONTRACTOR

The requirements are basically unchanged from the 1994 regulations, however greater emphasis has been placed on ensuring that there is:

- Planning, managing and monitoring construction phase in liaison with contractors
- Providing contractors relevant parts of the construction phase plan
- Suitable welfare facilities are provided right from the start and throughout the construction phase
- Workers have site inductions and any further information and training needed for the work
- Securing of the site
- Consultation with the workers
- Every contractor who will work on the project is informed of the minimum amount of time which they will be allowed for planning and preparation before they begin work on site.

THE CDM CO-ORDINATOR

This is a new role, replacing the Planning Supervisor role. The main duties are to:

- Act as the key advisor for the client
- Co-ordinate the design process and ensure that the structure is safe to build; safe to use; safe to clean and maintain; safe to demolish
- Advise the client on competence and appointments; provision of information and adequacy of H&S plan
- Coordinate design and pre-construction preparation and prepare the health and safety file
- Provide the right information to the right people at the right time

A greater emphasis has been put on the duties that were in the old CDM regulations, in particular;

- Co-ordinate H & S aspects of the design work
- Facilitate good communication between clients, designers and contractors
- Identifying, collecting and passing on pre-construction information
- Preparing as well as updating the H & S file

THERE MUST BE A CDM CO-ORDINATOR AND A PRINCIPAL CONTRACTOR UNTIL THE END OF THE CONSTRUCTION PHASE

CONTRACTORS

There are several explicit duties and responsibilities, including:-

- Planning, managing and monitoring their own work
- Checking the competence of all their appointees and workers
- Training their own employees
- Providing information to their employees