

## CDM 2015 Review - The New Guidance

The changes below indicate that all involved with construction projects face more demanding responsibilities.

### **Domestic project builders and architects – new duties.**

New responsibilities for managing construction projects will fall to “domestic clients” i.e. those who procure extensions etc. for their own homes. Until now excluded under CDM 2007 as “non-notifiable”.

The impact on domestic clients will be eased by ‘deeming’ that either an **appointed building contractor or designer e.g. project architect** will be responsible for the domestic client project management and co-ordination responsibilities. In reality, the building contractor will advise the client that an F10 notification is required in the domestic market place.

Where there is more than one contractor working on a domestic project at any time the contractor will be required to take the following actions:

- *arrangements – for safety management and acceptable welfare;*
- *review – maintain and review those arrangements throughout the project;*
- *information – provide Pre-Construction Information to designers and others;*
- *health & safety plan – draw up a Construction Phase Plan; and*
- *inform – notify larger projects to HSE.*

These responsibilities are in addition to specific contractor duties included in the proposals.

Where it is foreseeable that more than one contractor will be working on a project, the domestic client will be required to appoint a ‘Principal Designer’ (PD) and a ‘Principal Contractor’ (PC). If the domestic client fails to make these appointments they will be deemed to fall to the first designer and first contractor appointed.

Domestic clients are unlikely to make the required appointments and these new duties will fall to the project architect (PD) and main contractor (PC).

### **CDM-PD duties more than those of CDM-C**

The old CDM 2007 Co-ordinator (CDM-C) duties will become the responsibility of architect practices or other designers appointed as ‘Principal Designer’ (CDM-PD). HSE estimated that 1 million additional small projects will require the appointment of a PD each year.

The CDM-PD will be required to plan, manage, monitor and co-ordinate the project pre-construction phase to ensure:

- project is carried out without risks to health or safety;
- pre-construction information preparation and provision;
- identification, elimination, or control of foreseeable risks;
- cooperation of all persons working on the project;
- compliance of all designers with their duties;
- preparation and revision of a health safety file; and
- liaison with principal contractor e.g. information for construction phase plan.

These wide-ranging CDM-PD responsibilities include both ‘design’ and other ‘preparatory’ work embracing a ‘management’ role beyond the old CDM-C function.

### **CDM-PC responsibilities extended**

The Principal Contractor (CDM-PC) duties under CDM 2015 will extend PC legal responsibility for the construction work carried out by contractors working on a project.

The CDM-PC duty under CDM 2007 is to: “Plan, manage and monitor the construction phase in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health or safety.”

By contrast, the key duty of contractors under CDM 2015 is to: "Plan, manage and monitor construction work carried out by him or under his control in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health and safety."

Under CDM 2015 the distinction between PC accountability for the 'construction phase' and contractor accountability for 'construction work' will effectively be removed and the PC will become more strictly accountable for contractor 'work' and any offences, or charges, arising from those failings.

The proposal would reduce the ability to the PC to defend prosecutions or fee for interventions charges on the basis that the contraventions were solely or primarily those of the contractor.

### **CDM Designer duty more absolute**

The main legal responsibility of designers under CDM 2007 requires that designers seek to avoid foreseeable risk during design.

This duty is heavily qualified and can be "performed so far as is reasonably practicable, taking due account of other relevant design considerations."

Under the new regulation the qualification "taking due account of other relevant design considerations" has been deleted with the effect of making the designer duty far more absolute.

The main changes, outlined in general by the Health & Safety Executive, are as follows:

1. Significant structural simplification of the Regulations.
2. Replacing the Approved Code of Practice (ACoP) with targeted guidance for the five duty holders: clients, designers, principal designers, contractors and principal contractors, all available from the CITB website.
3. Replacing the CDM Co-ordinator role with the new role of 'Principal Designer'.
4. Replacing explicit requirement for individual competence with a need to have appropriate information, instruction, training and supervision to work safely. Note that the final wording of the Regulations is likely to focus upon skills, knowledge, training and experience of individual workers.

By removal of the domestic client exemption, those duties fall to the contractor or the Principal Contractor where more than one (in effect, this places legal obligations on householders who are having even minor construction work done on their homes e.g. a bathroom refurbishment).

HSE notification level changes:

2007: 30 days or 500 person days.

2015: 30 days and more than 20 workers simultaneously.

The CITB are supporting the production of a series of industry guidance documents that explain the responsibilities of each key duty-holder defined in the Regulations. These are available on this website.

### ***Why have the CDM Regulations been changed?***

The changes were put forward by the HSE following research on what the construction industry thought about the old (2007) CDM Regulations.

That research found:

- The industry views the Regulations as still being too bureaucratic, having a heavy burdensome approach to the competence issue, particularly for small and medium sized enterprises (SMEs)

- The pre-construction phase, in particular the 'client adviser' role of the CDM Co-ordinators is not working as well as many had hoped

***How does this affect construction companies?***

The new guidelines took effect on the 6th April 2015 and companies will have to comply by that date.

- Employers will need to provide information, instruction, training and supervision, with workers having their training needs assessed against the needs of the job and employers to meet the gap in skills knowledge through appropriate training
- A principal designer and principal contractor role will replace the old CDM Co-ordinator role. The CDM Regulations have always required safety to be part of the initial planning of the project at design stage. Some designers have not taken full responsibility for this duty, leaving this to someone generally not part of the initial team, as was often the case, with the old CDM Co-ordinator.

The HS&E test, taken by more than 500,000 people a year, will be refreshed and updated to reflect the new CDM Regulations.

Other core HS&E publications, including the GE700 Construction Site Safety and all NCC and Site Safety Plus courses, such as the Site Managers Safety Training Scheme (SMSTS) and the Site Supervisors Safety Training Scheme (SSSTS), will also be updated.

***What will this mean for domestic clients – homeowners?***

For the first time the revised CDM Regulations will apply to domestic clients (homeowners), although these duties can be done by the contractor or principal contractor, or if the client makes a specific appointment, the designer.

- All building and renovation work shown in property development programmes will be covered by the revised CDM Regulations, as these are likely to involve more than one contractor.
- Written construction phase plans for all construction projects and a principal designer and principal contractor appointed when there is more than one contractor on a project.

The full responsibilities of each key duty-holder, as defined by the regulations, are explained in the CITB's industry guidance documents.