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CDM REGULATIONS 2015

The transition period for the new CDM Regulations concluded on October 6th. Peter Donohue, Safety, Health & Environment Manager for building envelope specialist, CA Group, revisits the key changes and welcomes the much-needed clarity they bring.

"The new CDM Regulations have addressed a number of areas which were previously open to interpretation, tightening the language and expanding on the specific criteria to help ensure a successful and, crucially, safe outcome to all roofing activities.

"One example directly addresses the interpretation of the word 'competence', a detailed requirement contained in CDM Regulations from 2007. With the new Regulations, the term 'competence' has been removed altogether, because it has no minimum legal standard. Instead the attributes of which competence broadly comprises, namely: skills, knowledge, experience, training (contractor only) and organisational capability all now require individual assessment – something which is far more measurable within the roofing industry."

The following two examples further demonstrate the increased level of understanding for "competence" requirements, which have been introduced within the new regulations:

Reg8 – relates to appointments at the outset of a project

- For appointed Designers, Principal Designers and Principal Contractors to have the skills, knowledge and experience necessary for the job in question

- A roofing company can have Organisational Capability for the job – i.e. the body corporate holds the necessary skills, knowledge and experience, and has policies and systems in place to utilise them and ensure they are maintained

- A roof designer or roofing contractor must not accept an appointment unless these conditions are met

Reg15 – contractor duty relating to putting individuals to work on a job

- A person employed or appointed by a roofing contractor (including Principal Contractor) has to have the skills, knowledge, experience and training for the job they are employed to do – or be in the process of obtaining them.
- The roofing contractor must provide appropriate supervision.

SUPERVISION

According to Donohue, roofing contractors should recognise that training on its own is not enough. Newly trained individuals need to be supervised and given the opportunity to gain positive experience of working in a range of conditions.

Factors that should be considered when assessing the level of supervision needed for any operative working at height, irrespective of their experience, include: the level of the individuals' safety awareness, education, physical agility, literacy and attitude to working on roofs.

The theory behind the new regulations is to put the onus back on the

construction and roofing industry in order for them to take ownership and develop and deliver the systems which best serve their needs.

DOMESTIC CLIENT

Another notable change is in relation to the domestic client exemption, which has been removed. The domestic client is now defined as any client having construction work, inclusive of any type of roofwork, done on their own home, or that of a family member, which is NOT done in connection with a business.

The domestic client is not required to carry out the duties of a commercial client. Instead, if there is only one contractor, the appointed roofing contractor carries out the domestic client's duties in addition to their own duties as a contractor.

Domestic clients should ensure that the roofing contractor is aware of the client duties, under the new regulations, as well as their own duties as a contractor. It is also advisable for domestic clients to request examples and/or references for previous work undertaken of a similar nature.

Donohue concludes: "The New CDM Regulations were introduced by the HSE in order to simplify and streamline health and safety. The revisions will no doubt lead to some confusion as they bed in over the next 12 months, but anything that goes towards improving the safety of operatives working at height, as well as maintaining the high standards necessary to secure the reputation of the roofing industry as a whole, is to be welcomed."



INTRODUCING THE CONSTRUCTION (DESIGN & MANAGEMENT) REGULATIONS 2015 (CDM)

MAI NFE ATURE

On April 2nd, HSE published the new CDM 2015 Regulations and the accompanying L series guide. The guide explains what the law is seeking to achieve and what the regulations mean in practice for the various dutyholders, across all construction projects. This guide is supported by a series of industry guidance booklets, one for each dutyholder and one for workers. Written by industry groups representing the breadth of construction professionals, and hosted by CITB (Construction Industry Training Board), their focus is to provide practical advice on implementing the new legal requirements on smaller construction projects.

Both the L Series and industry guides can be freely downloaded from HSE and CITB websites.

SO... WHAT'S NEW?

- Simplified structure to the regulations
- Clients responsibilities strengthened and broadened
- Removal of exemption for domestic clients
- A new role of Principal Designer to co-ordinate the design stage
- Removal of the role of CDM-C
- Removal of notification as a trigger point for additional duties
- Notification threshold includes worker numbers
- Appointments threshold being where more than one contractor on a project
- Removal of 'competence' requirement and replaced with 'skills, knowledge, experience and training' and 'organisational capability'
- All construction projects require a construction phase plan (CPP)

SIMPLIFIED.

The regulations provide a much more linear structure that represents the process of delivering a construction project from concept, through design and build to handover and future use of a structure. This approach provides greater clarity on the importance and influence that each dutyholder has on the way that construction hazard and risks are identified, reduced, controlled and managed, throughout a project. A single set of requirements, applicable to all projects irrespective of size and duration. Unlike with CDM 2007 there is only one trigger point for additional action in the new regulations concerning only the client.

COMMERCIAL CLIENTS

Recognising the importance and influence a client has over the way a project is procured and delivered and the standards to which these are done, the regulations strengthen and broaden their responsibilities. The regulations encourage clients to actively lead construction projects, whilst recognising that their experience and abilities will be diverse.

The client is now responsible for making the arrangements by which the project will be managed and ensuring that those arrangements are maintained and reviewed throughout the life of the project.

Where there is or is likely to be more than one contractor working on a project, the client must appoint both a Principal Designer (PD) and a Principal Contractor (PC) at the earliest opportunity and before construction starts. The client is also responsible for taking 'reasonable steps' to ensure both the PD and PC comply with their duties, for providing pre construction information (PCI), ensuring the construction phase plan and health and safety file are produced and for ensuring the health and safety file is handed over to any new owner of the structure.

DOMESTIC CLIENTS

Although the exemption for domestic clients has been removed, the only responsibility placed upon them is to appoint the PC and PD, where there

is more than one contractor. However, if this (as will be common practice) does not happen, the regulations automatically transfer the client duties to the contractor or principal contractor of a project. In recognising that some domestic clients may have already established a relationship with their designer before they go ahead with construction, the regulations allow the designer to take on the client duties where there is a written agreement between the client and designer to do so.

PRINCIPAL DESIGNER

This new role brings the function of planning, managing, monitoring and co-ordinating the design stage of the project, directly into the project team and under the control of a designer.

The PD will support the client in bringing together and providing the Pre Construction Information (PCI) and act as the conduit for disseminating that information to the various dutyholders who will need it at the right time. This will be an ongoing responsibility throughout the life of the project.

The PD is responsible for ensuring the designers working on the project discharge the duties placed upon them as designers throughout their appointment.

The role of the PD mirrors that of PC in the construction phase. This role is not limited to the design stage before construction starts.

The PD will work together with the PC throughout the life of their appointment to ensure the health and safety implications of design aspects and later changes are properly considered, support the PC in drawing up the construction phase plan as well as developing the health and safety file and providing it to the client at the end of the project.

The regulations do recognise that in some projects the PD may not be contracted throughout the whole life of the project – especially when the design stage is complete and the construction phase is well advanced. If, in this situation the PD is released from the project, then the responsibility for completing the health safety file and handing it to the client at the end of the project passes to the PC.

NOTIFICATION

The notification threshold for projects has changed. A project becomes notifiable where it lasts longer than 30 days AND has more than 20 workers, working simultaneously at any one point OR exceeds 500 person days.

Increasing the notification threshold will reduce the number of projects required to be notified significantly, and thus reduce the burden on business.

Notification is a stand-alone requirement and does not give rise to any additional duties.

REMOVAL OF 'COMPETENCE'

'Competence', is a term that has no minimum standard of compliance, is widely misunderstood, and unhelpfully applied to both individuals and organisations - giving rise to unintended bureaucracy, without necessarily improving the development of a competent workforce in all sectors of construction.

To address some of these issues and to make the delivery of a competent workforce clearer for dutyholders, the new regulations have disentangled 'competence' into its component parts of 'skills, knowledge, training and experience (SKTE)', and where it refers to an organisation, 'organisational capability'.

The new regulations focus attention on the work that individuals and organisations are appointed to undertake and require that those appointed have the necessary skills, knowledge and experience to deliver that work effectively and safely – each and every day.

It's therefore incumbent upon anybody appointing a contractor or designer (including PD and PC) to ensure they have the necessary skills, knowledge and experience, before they are appointed.

The regulations also provide flexibility for those employing and appointing site workers, by requiring that those employed or appointed either have or are obtaining the necessary SKTE for the task in hand. By requiring contractors to provide adequate supervision for all workers under their control, the regulations allow workers to develop site skills without being put at risk or putting themselves and others at risk.

THE CONSTRUCTION PHASE PLAN

All construction projects will now require a construction phase plan (CPP) – irrespective of size and duration. The purpose of this provision is to focus those undertaking even the smallest of projects (including domestic work) on the planning of the project and ensure associated risk is considered and controlled.

The plan should be proportionate to the scale of the job and the health and safety risks involved. Plans involving smaller, less risky jobs should be short and simple and should require no further consideration than is already required for well-managed activities.

To help small construction businesses complete these plans without additional burden, HSE has produced a simple template. The template CPP is available from the HSE website and includes the necessary information to allow businesses to plan their work and consider risks quickly and efficiently. Additionally HSE and CITB have developed a smartphone app, freely available to download from the CITB website, which allows the Construction Phase Plan to be completed within a few minutes without any paper form filling. This app is designed for small businesses undertaking routine construction projects. Once the relevant construction activities are input – the app identifies the common health and safety risks automatically, and the control measures that should be followed.

The plan is automatically generated

and can be saved or emailed to others such as clients and other contractors.

HSE encourages all small building firms to adopt this approach.

DOES MAINTENANCE WORK NEED A CONSTRUCTION PHASE PLAN?

The definition of construction work has not changed and dutyholders still need to make a sensible judgement as to whether CDM 2015 applies to activities such as maintenance. For example, where the activities involve general maintenance of fixed plant involving mechanical adjustments, replacing parts or lubrication it continues to be unlikely to be construction work and CDM 2015 will not apply.

However, where the task in hand looks like building work, requires construction skills and uses construction materials, CDM 2015 is likely to apply. In this case, the job will need planning. A practical and proportionate construction phase plan, which highlights the real risks of the work, should be prepared and kept up-to-date.

WHAT SHOULD DESIGNERS AND CONTRACTORS BE SAYING TO CLIENTS (DOMESTIC, INEXPERIENCED OR OTHERWISE)?

A designer can take many guises from an architect, technician or technologist through to the specific designer disciplines of structural, civil, electrical

and the like. Moreover, any other discipline (including contractors) preparing or modifying a design, or arranging or instructing another under their control to do so, is a designer. Irrespective of the role, the duties on the designer remain the same. Primarily, their first obligation will be to ensure before they start any design work that the client is aware of their obligations under CDM.

Designers' responsibilities differ little in this respect from that conferred on them by CDM 2007. A designer should have sufficient knowledge of the client's obligations in order to be able to assess their knowledge and advise them of their role. Advising the client of their obligations is a routine matter that will be part of any early discussions about the project.

The regulations do not specify any one method by which designers will discharge this responsibility and indeed it will be on a case by case basis.

Many designers have in the past, used a standard letter format to the client and this may well continue to be a sensible approach. In the smallest of commercial projects, this may prove a useful method, but it may be that verbal advice and assurance is enough. It is often helpful for a designer to have some mechanism to record that they have discussed and advised the client on this issue – but any such mechanism should minimise bureaucracy for bureaucracy's sake.

MESSAGES FOR CONTRACTORS AND DOMESTIC CLIENTS

Most importantly, the regulations do not seek to make the lives of contractors more difficult. By passing the client responsibilities to the Principal Contractor or contractor in control of the project or the designer if the domestic client so wishes, the current position for domestic projects changes little.

The new regulations intend to support small business in improving health and safety standards on sites where incident rates are high. It is not the intention to increase bureaucracy or cost – quite the opposite. By providing clear guidance through the industry guides for principal contractors and contractors and supporting that guidance with the template CPP and smartphone app, HSE believes that small construction projects can be delivered to a higher standard of health and safety and thus cost effectiveness with minimal extra work on the part of business.

TOPTIPS

- 1 Read the industry guides – they are a great help
- 2 Download the CITB smartphone CPP app and use it.
- 3 Make sure work is planned in a sensible and proportionate way
- 4 Concentrate on the real risks involved with construction work
- 5 Be aware of your possible role as a client in domestic projects
- 6 Use the HSE CDM 2015 website – it has all the information you need for free
- 7 Remember – HSE does not expect contractors to be health and safety officers – they want you to work safely.
- 8 Contractors and designers need to communicate and help each other in delivering a successful project





Are you complying with CDM2015?

As the transitional provisions of the Construction (Design and Management) Regulations 2015 (CDM2015) ended on 6th October 2015, ALL construction work must now fully comply with the duties and requirements of CDM2015.

APPLICATION OF CDM2015

The normally understood definition of construction of new build and major refurbishment work also applies to ongoing maintenance and repair of buildings, building services, utilities and other fixed plant and systems.

The following extract from Q&A Briefings – Construction Division - Construction (Design and Management) Regulations 2015 further explains the Health and Safety Executive's interpretation of what is construction.

Q1. Does CDM 2015 apply to all maintenance work?

The definition of maintenance work has not changed. If the task in hand looks like construction work, requires construction skills and uses

construction materials, it is construction work. General maintenance of fixed plant which mainly involves mechanical adjustments, replacing parts or lubrication is unlikely to be construction work.

If the maintenance work is construction work, and there is only one contractor, no PC or PD appointment is required. If more contractors are brought in, then a PC and PD need to be appointed for that particular project.

All construction work under CDM 2015 requires planning, but the plan for smaller jobs should be simple, short and proportionate to the risks.

Example: Changing a lamp in a light fitting would not be construction, but repairing or replacing the light fitting would be construction.

CDM2015 applies to any construction work performed for both commercial and domestic clients, and is not dependent on the time taken for the work or the number of persons performing the work.

APPOINTMENTS & THE HEALTH & SAFETY FILE

The appointments of the principal designer (PD), the replacement for the CDM coordinator, and the principal contractor (PC), and the requirements for a health and safety file, only apply where the project may involve more than one contractor for the delivery of the project. A contractor is any organisation performing construction work, including the client's personnel performing construction work, main contractors, specialist contractors and sub-contractors.

Note that the appointments and the health and safety file requirements were linked to the notification of the project under the previous version of the regulations (CDM2007), and that this is no longer the case. Linking these requirements to 'more than one contractor' means that the appointments and health and safety file are required for much smaller projects.

Example: Replacing the light fitting by a client employee (maintenance technician), with an electrical contractor employed to perform the electrical isolations and the work, would be two contractors and would require the appointment of a principal designer and principal contractor and the production of a health and safety file.

NOTIFICATIONS

Notification of a construction project is now a stand-alone part of the regulations, and does not cause any other parts of the regulations to apply. These notifications are now required to be performed electronically, through the Health and Safety Executive (HSE) website by the client, or on the client's behalf.

Fewer notifications will now be required than were required under CDM2007, as the notification criteria now is that the construction phase(s) include 30 working days, and at some point more than 20 persons working or involve over 500 person days/shifts. The 20 persons is the changed requirement, and will result in fewer projects being notified.

Example: If the project involves 100 working days with an average of 4 persons working and at no time more than 20 persons working, the project is not notifiable.

CONSTRUCTION PHASE PLAN

Under CDM2007 a construction phase plan was only required to be prepared and managed by the principal contractor on notifiable projects. CDM2015 requires all construction work to be performed under the control of a construction phase plan, not taking into account whether the project is notifiable or not, how long the project will take or how many people or contractors are involved or whether a principal contractor is appointed.

Example: Replacing the light fitting by a client employee (maintenance technician, electrically qualified), without any other contractors involved will still require a construction phase plan to be produced by the client, who is also the contractor for this project.

ADDITIONAL CLIENT DUTIES

CDM2015 places more significant duties on clients than were placed on them under CDM2007. The client is now much more involved in the health and safety management of projects and must ensure that the appointed principal designer and principal contractor are complying with their duties. The client must also ensure that the health and safety file is compliant with the regulations.

These additional requirements on clients have been imposed by CDM2015 whilst at the same time the client's advisor under CDM2007 (CDM coordinator) has been removed. The principal designer does not have any duties to advise and assist the client with the client duties, except with regards to the pre-construction information.

The HSE have stated that this advice and assistance could be provided by the client's health and safety advisor, required by the Management of Health and Safety at Work Regulations 1999. The HSE have also stated that if that person or persons are not skilled, knowledgeable and experienced in construction health and safety management and CDM, or do not have the time and resources to provide this advice and assistance, the client could engage an external organisation to provide this service. These organisations are calling themselves CDM advisors or CDM consultants.

ADVICE, ASSISTANCE AND TRAINING

If you need external advice and assistance you should talk to Callsafe Services Limited, who provide these services, also being appointed as principal designer and CDM advisor by our clients. We also offer both accredited and non-accredited training in the requirements of the CDM2015. See our advert on the outside back cover.



ADVANTAGES & DISADVANTAGES OF CDM 15

FEATURE

By Louise Hosking MCIEH CMIOSH IMaPS AIEMA SIIRSM
Chartered Safety & Health Practitioner Director at Hosking Associates Ltd

More than 6 months in, the transition period is far behind us and all construction projects are now subject to Construction (Design & Management) Regulations 2015.

So, are the changes a good thing or not?



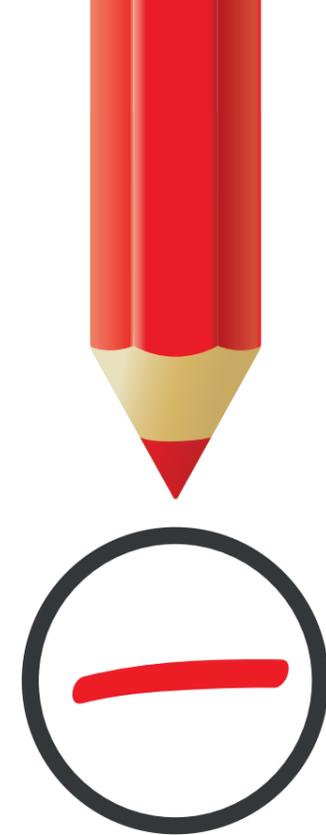
1 Those who create risk are responsible for managing it. This means designers must follow the hierarchy of risk control when making design decisions and, if they are designing a workplace, comply with The Workplace (Health, Safety & Welfare) Regulations 1992. Projects must be designed so they can be constructed safely, used safely, cleaned safely and ultimately dismantled safely.

2 CDM15 places greater importance on the health part of health & safety. Every year there are 3500 deaths and 5500 new cancer registrations due to construction work. Requirements to protect workers during outdoor work have been enhanced and designers are expected to do more to manage occupational health risk when specifying materials, processes and sequence of work. HSE guidance on the development of the construction phase plan places an emphasis on managing dust, asbestos and fumes.

3 Duty holder's responsibilities are more clearly defined. Clients are more accountable than they were, and are expected to use their influence to manage standards in respect of health, safety & welfare effectively.

4 The new role of the principal designer places the responsibility on a designer to consider H&S before the project reaches site, to coordinate H&S with other designers, liaise with the PC once work has begun and to create the health & safety file where they have been appointed. See 1 above!

5 CDM15 includes construction work in the domestic sector. It is widely expected the HSE will be focusing on whether builders working for homeowners are complying with standards during their future campaigns. There is far more free guidance than ever before aimed at the smaller builder and the CITB have developed a nifty app for creating a construction phase plan aimed at making everyone think before a spade hits the ground.



1 Some project teams are used to relying on a CDM-C to champion Health & Safety rather than themselves, so they do not have the skills, knowledge or experience (SKE) to actually design to the expected standard. The wealth of knowledge CDM-Cs have developed is potentially in danger of being lost.

2 Much greater expertise and understanding in occupational health risk is required for the project team to fully understand how good design and collaborative management can protect construction workers' health. CDM15 is now relevant for much smaller projects and clients may not be aware this is being fully managed - placing them at risk also.

3 Clients are more likely than they were to be prosecuted if something goes wrong. Clients involved in one off projects have to rely on the advice of others.

4 Many design organisations are unwilling or unable to become the PD. Some have experienced difficulties in respect of professional indemnity insurance and on some projects confusion has reigned.

5 Most home owners focus on cost when choosing their contractor. Commercial clients have always had shared responsibilities to manage their contractors safely, but under CDM15 the domestic contractor themselves will usually take these responsibilities. Responsible contractors may be able to demonstrate they have the ability to comply when they pitch for the work, but will anyone listen when faced with a potentially higher price? Many contractors and homeowners are unaware of the changes. Where more than one contractor is required, a PD must be engaged and a health & safety file provided to the domestic client at the end of the project. It may only be when a property is sold where this is discovered to be missing.





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