

CDM 2007 Review - Consultation Launched

The HSE has released a consultation on the replacement of the Construction (Design and Management) Regulations 2007 (attached), and it will run until 6th June.2014

The HSE's evaluation process of the CDM 2007 identified a number of priorities to be taken forward by the HSE in the Review of the CDM 2007, and these are the main points on which the HSE is consulting:

- **Structural simplification of the Regulations** - It will be important to scrutinise the changes for any unintended consequences arising from the simplification process..
- **The replacement of the Approved Code of Practice with targeted guidance** - The Construction Clients Group (CCG) will determine industry guidance to replace the ACOP. Representing Land Securities and chair of the CONIAC CDM 2015 Working Group I will leading on the proposed Guidance. The Working Group is made up of several major UK construction clients to ensure we get a well-balanced document, which will give guidance not only to large knowledgeable and informed clients like ourselves but to one off infrequent clients.
- **Removal of explicit competence requirements and replacing with a specific requirement for appropriate skills** - I would be particularly keen to receive views from our Project Directors/Development Managers etc. as to whether this raises concerns to the ability of clients to judge the competency of those they engage on construction projects.
- **Replacement of the CDM Coordinator role with a new role, that of 'Principal Designer'** - The Principal Designer role is intended by the HSE to be allocated and will be discharged by the person responsible for the design work, which may be a contractor, an architect, an engineer, etc. The HSE believes that little additional work, over and above what is currently expected of a responsible designer, will be required by this change. The current feedback from our architect/designers is that they are not keen to take on the health and safety responsibility.
- **Changes to the threshold for the appointment of CDM Co-ordinators** – Under CDM 2007, the threshold for Part 3 appointments to apply (appointment of the CDM-c, principal contractor and so forth) is the same as the notification threshold – 30 days or 500 person-days. The Temporary and Mobile Construction Sites Directive requires the appointment of co-ordinators wherever there is more than one contractor. As the current Government's policy toward European legislation is to 'copy out' the HSE intends to satisfy this requirement, but will specify in guidance, tests it believes will ensure that the appointment of CDM Co-ordinators/Principal Designers remains proportionate. Via the CDM Working Group we are already in the process of working with organisations representing small residential landlords in order to obtain their feedback to include in the CCG response.
- **Extension of client health and safety responsibilities to domestic clients** – Again as a result of the current Government's policy of 'copy out' of European Directives, the HSE intends to address the fact that the Directive does not distinguish between a) a person who 'in the course of the furtherance of a business' has or seeks to have construction work carried out and b) domestic owner occupiers. The domestic client exemption will therefore be removed but the HSE intends it that a default position will exist whereby the duties that would fall on the domestic client would instead fall upon the contractor (or the principal contractor in instances where there is more than one). However, regulation 4 also permits a domestic client the option of appointing a Principal Designer to carry out regulations 5, 7 and 8 and contains a fall-back position if no appointments are made.

- **Notification** – the requirement for notification of projects to HSE will be brought into line with the Directive. The HSE proposes a stand-alone duty to notify projects lasting longer than 30 days and on which more than 20 workers are working simultaneously or exceeding 500 person days. The intention is that this will no longer act as a threshold triggering additional duties as is the case in CDM 2007, which the HSE contends reduces complexity.
- We have until the **6th June 2014** to respond on the consultation document, the Construction Clients Groups will be our vehicle for our formal response. For your interest I have attached a copy of the consultation document, if you have any comments I would be happy to discuss them with you.

I am in constant contact with the HSE and the Construction Clients Group and I will update you accordingly.

Also noted below duty holder actions required under the proposed CDM regulations 2015

Project Duty Holder	ACTIONS REQUIRED UNDER PROPOSED CDM REGULATIONS 2015
<p>ALL CLIENTS: Where there is only one contractor</p> <p>Domestic Client - duties carried out by the <u>contractor</u></p> <p>Business Client - duties carried out by the client</p>	<ul style="list-style-type: none"> • Project Management Arrangements - make, maintain and review arrangements, suitable for persons with CDM duties, to ensure that construction work is carried out without risk and compliant with welfare requirements; • Pre-construction information (PCI) - provide to each designer involved in the design of a structure and each contractor who is or might be engaged by the client; • Construction Phase Plan (CPP) - ensure CPP drawn up before the construction phase begins; • Notify HSE - if site construction work scheduled to last >30 working days and have >20 workers working simultaneously at any point in the project or exceed 500 person days. Notify as soon as is practicable before the construction phase begins; • Contractor training etc. - ensure the necessary information, instruction and training received and appropriate supervision to comply; and • Co-operation with others - cooperate with any other person at the site or an adjoining site to enable others perform their duties etc.
<p>DOMESTIC CLIENTS: Where there is more than one contractor.</p> <ul style="list-style-type: none"> • All client duties above carried out by the appointed PC (unless there is a written agreement between the client and PD that the PD will fulfil the duties) 	<ul style="list-style-type: none"> • Appoint Principal Designer (PD) - to carry out the PD responsibilities. Where no appointment is made the first designer appointed during the pre-construction phase is deemed to be appointed as the principal designer; and • Appoint Principal Contractor (PC) - to carry out PC responsibilities. Where no appointment is made the first contractor appointed during the construction phase is deemed to be appointed as the principal contractor.

BUSINESS CLIENTS:

Where there is more than one contractor

Duties carried out by the client

- **Project Management Arrangements** - make, maintain and review arrangements, suitable for persons with CDM duties, to ensure that construction work is carried out without risk and compliant with welfare requirements;
- **Pre-construction information (PCI)** - provide to each designer involved in the design of a structure and each contractor who is or might be engaged by the client;
- **Construction Phase Plan (CPP)** - ensure CPP drawn up before the construction phase begins;
- **Notify HSE** - if site construction work scheduled to last >30 working days and have >20 workers working simultaneously at any point in the project or exceed 500 person days. Notify as soon as is practicable before the construction phase begins;
- **Contractor training etc.** - ensure the necessary information, instruction and training received and appropriate supervision to comply; and
- **Cooperation with others** - cooperate with any other person at the site or an adjoining site
- to enable others perform their duties etc.

PRINCIPAL DESIGNERS

- Plan, manage, monitor and coordinate** - the pre-construction phase taking into account the general principles of prevention to ensure:
- **Safety and health** - project is carried out without risks to health or safety;
 - **PCI** - provide assistance to the client in the preparation;
 - **Foreseeable risks** - identification, elimination, or control of foreseeable risks;
 - **Cooperation** - of all persons working on the project;
 - **Designers compliance** – with their duties;
 - **HSF** - preparation and revision;
 - **PCI** - prompt provision in a convenient form;
 - **PC Liaison** - e.g. information PC may need to prepare the construction phase plan;

DESIGNERS

- Client awareness** - do not commence work in relation to a project unless satisfied that the client is aware of duties;
- **Elimination of risk** - take account of the general principals of prevention and PCI when preparing or modifying a design to eliminate foreseeable risks
 - **Risk reduction and control** - if not possible to eliminate take steps to reduce and control risks through the subsequent design process;

	<ul style="list-style-type: none"> • Residual risk - provide information about those risks to the PD and ensure information is included in the health and safety file; and • Provide information - with the design about aspects of the design of the structure or its construction or maintenance to adequately assist others to comply.
PRINCIPAL CONTRACTOR	<p>Plan, manage, monitor and coordinate - the construction phase taking into account the general principles of prevention to ensure:</p> <ul style="list-style-type: none"> • Safety and health - project is carried out without risks to health or safety; • CPP - drawn up as soon as practicable prior to setting up a construction site and updated, reviewed and revised so continues to be sufficient; • Co-ordination - of the implementation of the relevant legal requirements to ensure that employers etc apply the general principles of prevention in a consistent manner and follow the CPP; • Site Rules - drawn up ; • Site induction - provide; • Unauthorised access – prevent ; • Welfare - complies throughout the construction phase; • Liaison with PD - for the duration of the project and in particular regarding any information, which needed to prepare the HSF or may affect the planning and management of the pre-construction phase; • HSF - is appropriately updated, reviewed and revised from time to time; • Workforce cooperation - arrangements which will enable the principal contractor and workers to co-operate effectively in promoting and developing measures to ensure the HSW and checking effectiveness; • Workforce consultation - consult workers in good time on matters connected with the project which may affect their health, safety or welfare; and • Workforce information - ensure that workers can inspect and take copies of certain information.
CONTRACTORS	<p>Client awareness - do not commence work in relation to a project unless satisfied that the client is aware of duties;</p> <p>Plan, manage and monitor - the way in which construction work is carried out in a way which ensures that:</p> <ul style="list-style-type: none"> • Safety and health - project is carried out without risks to health or safety;

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| | <ul style="list-style-type: none"> • CPP - if there is no PC ensure drawn up as soon as practicable prior to setting up a construction site; • Information etc. - provide to workers any information and instruction so that construction work can be carried out without risk; • Site induction - where not already provided by the principal contractor; • Danger - procedures to be followed in the event of serious and imminent danger to health and safety; • Risk information - provide information on matters identified by the risk assessment under regulation 3 of the Management etc.; • Training - provide employees with any health and safety training required(6) A contractor must not begin work on a construction site unless reasonable steps have been; • Unauthorised access - prevent; • Welfare - complies throughout the construction phase; and • Directions and site rules – comply with those given by PD or PC |
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ACTION TO BE TAKEN: - Information only

FURTHER HELP AND CONTACTS:

If you need any further information or guidance please contact any member of the Group Health & Safety Team.

Clive Johnson 7th May 2014

