

# **GUIDE to the Construction Design & Management Regulations**

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## **CDM SERVICES**

Commensurate with our multi-disciplinary approach to construction services, we are now able to offer full planning supervisory duties and advice to clients on matters relating to the Construction Design and Management regulations.

This document provides a guide to the main features of the regulations and the duties imposed on parties to the construction process.

Please note that this document is not intended to provide comprehensive guidance on the details of the CDM Regulations. The requirements for any specific project should be confirmed with us, or by direct reference to the Regulations. Moreover, the views and interpretations given are based on our current understanding of the new legislation. The responsibilities of, and the duties on, members of the construction team should become clearer with time, as the enforcing authority and the courts consider the ways in which the regulations are being operated.

## **1.0 BACKGROUND TO THE CDM REGULATIONS**

The Construction (Design and Management) Regulations came into force on 31st March 1995. They were developed in response to the EC Directive “*The Implementation Of Minimum Health & Safety Requirements At Temporary and Mobile Worksites*”. They bring together the new statutory requirements under this directive, and in certain cases act as an *umbrella* for much of the health and safety legislation already enshrined in UK statute (particularly section 3 of the Health & Safety Act of 1974).

They are an attempt to promote co-operation in the field of health and safety between all parties to the construction process. They take the view that health and safety matters should be managed and funded in the same way as any other construction activity

The Regulations present new responsibilities for clients, designers and contractors. For the first time there is a legal obligation placed on the person initiating the construction work - the client - to take an active role in health and safety, by initially appointing a **Planning Supervisor**, and later a **Principal Contractor**, to deal with health and safety matters.

CDM significantly extends the obligations of the design team, based on the belief that decisions made in the planning process can directly influence on site safety and reduce many of the physical risks generally associated with the industry.

The reader should be aware that the CDM regulations operate in conjunction with....

- The Approved Code of Practice (which incorporates the regulations themselves).
- Designing for Health and Safety in Construction (CONIAC)
- A Guide to Managing Health and Safety in Construction
- The Management of Health and Safety at Work Regulations [1992]
- The Health & Safety Act of 1974

## **2.0 WHAT ARE THE CDM REGULATIONS ?**

**This section of the document outlines the underlying principles and elements of the CDM regulations.**

The CDM regulations impose statutory duties on clients, designers and contractors. Their purpose is to “reduce the toll of accidents and damage to the health of ‘all at work’ in the industry”<sup>1</sup>

**The main aims of the Regulations are....**

- ⇒ to promote proper consideration and the improved management and co-ordination of health and safety issues during every stage of the construction process. It is expected that consideration should even be given to maintenance and repair sector of the building’s life.
- ⇒ to make it a requirement for designers to be sufficiently aware of the health and safety repercussions of the design on both those constructing the works and those who have to maintain and repair the construction after completion.

**The CDM Regulations also introduce two new documents....**

### **1. The Health & Safety File**

This contains information designed to aid persons carrying out construction, maintenance, repair or demolition work on the project at a time after completion of the works.

### **2. The Health & Safety Plan**

This is used to impart health and safety information to the contractor and the tender and construction phases of the project.

Further matters relating to the health and safety plan and file are discussed later.

### **3.0 SCOPE OF APPLICATION FOR THE NEW REGULATIONS**

The Regulations apply to all construction work and to the cleaning of windows or translucent walls, ceilings or roofs where such cleaning involves a risk of a person falling more than 2 metres.

For the purposes of the regulations, construction work is given a wide definition and includes virtually all operations, which one might conceive under that term. It includes the demolition or removal of part of a structure and works on service installations including maintenance.

Despite this wide scope, there are limited situations where the regulations do not apply....

- ⇒ Where the construction phase will be less than 30 days.
- ⇒ Where the construction phase will not involve more than 500 person days.
- ⇒ Where no more than 4 persons are engaged in the construction work.

In such cases the regulations only impose duties on **designers** to consider health and safety matters in the preparations of their designs.

Demolition works, even of small size, have no such exemption.

In general, the requirements of the Regulations, except those on designers, do not apply to domestic clients, (i.e. those not in relations to any business purpose or use).

## **4.0 EFFECTS OF THE CDM ON THE PARTIES TO THE CONSTRUCTION PROCESS**

The other main feature of the report is the introduction of two new terms to the construction vocabulary:

### **1. The Planning Supervisor**

Briefly the Planning Supervisor's responsibilities are....

- ⇒ to ensure that a health and safety plan is developed prior to the arrangements for the carrying out or managing of the construction works are completed.
- ⇒ to provide that, as far as is reasonably practicable, the design includes sufficient regard for the designer's duties with regard to safety of design and adequacy of information, etc.
- ⇒ to encourage co-operation by designers.
- ⇒ to ensure that they [the planning supervisor] are in a position to provide advice and guidance.
- ⇒ to ensure that a health and safety file is prepared, and that the said file is kept up to date and passed onto the client on completion of the works.
- ⇒ to notify the Health and Safety Executive of the works, unless the works are of a size or nature so as to remove the requirement for notification (see section 7 of the CDM regulations).

## 2. The Principal Contractor

The main roles of the principal contractor are to....

- ⇒ co-ordinate the activities of all contractors
- ⇒ ensure that the contractors comply with any rules set out in the health and safety plan
- ⇒ ensure that only authorised personnel are allowed on site while construction work is progressing
- ⇒ ensure that contractors have the relevant information on the health and safety risks and that the contractors provide their employees the health and safety training required
- ⇒ consult as necessary with employees and self employed persons on site
- ⇒ provide the planning supervisor with any information needed for the health and safety file.
- ⇒ ensure that all details forwarded to the HSE under section 7 of the act are displayed.

Other, more familiar, parties to the construction process also have responsibilities.

### 3. The Client

The client must....

- ⇒ appoint a competent person as his planning supervisor.
- ⇒ appoint a competent contractor as the principal contractor.
- ⇒ satisfy himself that his planning supervisor, designers and contractor are of sufficient competence to comply with their statutory obligations.
- ⇒ ensure that the planning supervisor is provided with all the necessary information, for the health and safety file, on the state or condition of the site for development.
- ⇒ ensure that the health and safety file is accessible to whoever may require it - including tenants. In the event of the sale of the building, the health and safety file must be passed on to the new owner.

### 4. The Designers

The designer must ensure....

- ⇒ that he co-operates with the planning supervisor.
- ⇒ that the design avoids foreseeable health and safety risks to persons carrying out the works or to any person likely to be affected by the works.
- ⇒ that he/she makes the client aware of his full responsibilities under the CDM Regulations.
- ⇒ that the design includes adequate information about the structure or materials which might affect the health or safety of those carrying out construction or cleaning work, or the possible effects on those who may be affected by the work

## 5. Contractors

Under the CDM regulations, contractors must....

- ⇒ co-operate with the principal contractor.
- ⇒ comply with directions given by the principal contractor
- ⇒ provide information required by the principal contractor, including relevant submissions on risk assessments of project components and any data required for the health and safety file.
- ⇒ comply with any rules set out in the health and safety plan.
- ⇒ provide the principal contractor with information (notified or reported) under the Reporting Of Injuries, Diseases and Dangerous Occurrences Regulations [1985].

## 6. Employers & Self Employed

Employers and self employed must ensure that work is not commenced prior to their receipt of the following information....

- ⇒ the name of the planning supervisor.
- ⇒ the name of the principal contractor.
- ⇒ the contents of the Health and Safety Plan relevant to their work.

## **5.0 THE HEALTH & SAFETY FILE AND PLAN**

As indicated previously, a major new feature of the CDM Regulations is the requirement for both a health & safety plan and a health & safety file. This section of the guide should provide the reader with an indication of the purpose of both documents.

### **1. Health & Safety File**

The approved code of practice to the CDM Regulations states that....

“...the health and safety file amounts to a normal maintenance manual enlarged to alert those who will be responsible for a structure after handover” and to alert them to “the risks which must be managed when the structure and associated plant is maintained, repaired, renovated or demolished.”

The file should enable future planning supervisors to account for potential health and safety problems inherent in the structure and to ensure reference to them in future health and safety plans.

With regard to file contents, the planning supervisor should be wary of making the file just a dumping ground for any data related to the development. Very little can be said about what information is suitable, each project should have its own file characteristics. It must however, be remembered that all information should be related to the health and safety of the construction in hand, during construction and for the post-construction and pre-construction periods.

Almost everyone in the construction process will contribute to the health and safety file. However, it is the responsibility of the planning supervisor to ensure that all file information is co-ordinated properly.

## **2. Health & Safety Plan**

The health and safety plan should be started by the planning supervisor and implemented by the principal contractor. The plan should generally....

- ⇒ describe the programme, scope, and health and safety risks of the work
- ⇒ include information which the planning supervisor knows will be required by the principal contractor and contractors
- ⇒ include information about the welfare arrangements
- ⇒ include arrangements of the management of the building work and monitoring of health and safety compliance

A major problem in the development of the health and safety plan is the difficulties in identifying what aspects of the project create a risk to those involved, and then deciding whether the risk is of sufficient size to warrant recording. These difficulties mean that anyone appointed to develop the health and safety plan must have both a substantial knowledge of construction and a considerable awareness of current legislation.

## **The health and safety plan is developed in two stages.....**

### **i. The Pre-Tender Health & Safety Plan**

This document should be complete by the end of the traditional design stage, so that it may form part of the tender documentation. It should...

- ⇒ state clearly the health and safety issues specific to the project.
- ⇒ note where and when the principal risks are anticipated to occur and make tenderers aware of the potential hazards within the scheme (which they may not otherwise have been aware). Thus enabling them to cost for these items in their bid.
- ⇒ aid the client's task of selecting a contractor sufficiently competent to carry out the works.
- ⇒ help to eliminate contractor who would fail to devote sufficient resources and planning to complete the works competently and safely.

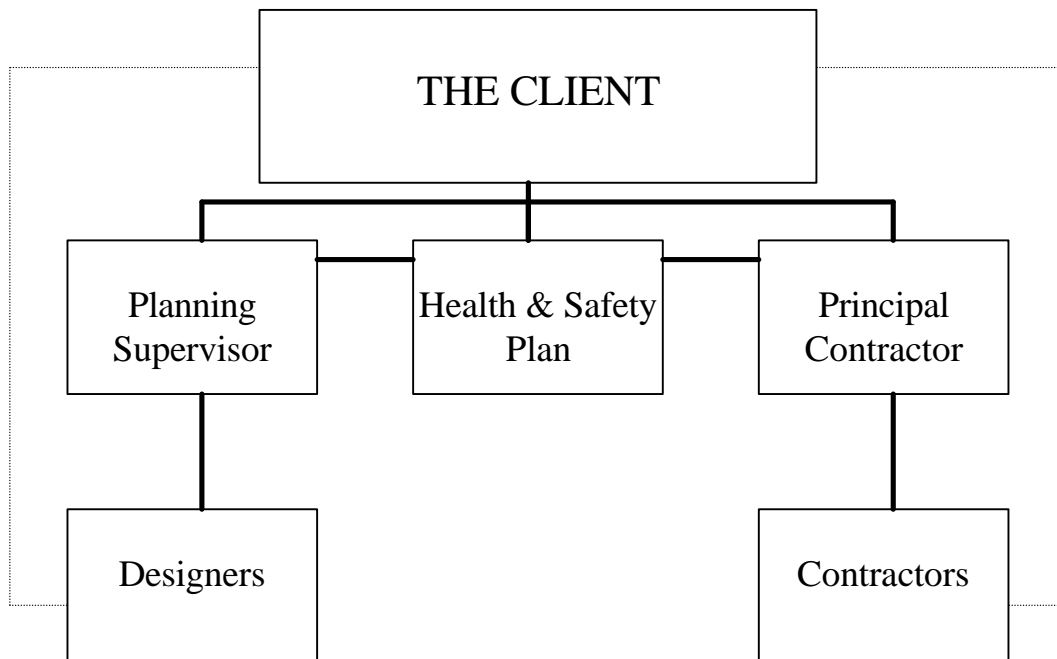
The size and scope of the safety plan will be dependant on the scale and complexity of works in hand.

### **ii. The Health & Safety Plan During The Construction Period**

Responsibility for the health and safety plan transfers from the planning supervisor to the principal contractor as soon as is possible after his appointment. It is then the principal contractor's duty to update and modify the plan as is necessary during the development of the project. This updating will take account of any risk associated with the health and safety assessments carried out on sub-contractor's work as they are appointed during the progression of works. The modification of the plan will also account for any design variations which may occur.

Unlike the health and safety file the plan is of no function once the works have been completed.

The figure below outlines the interrelationship between the various parts of the construction team and the health and safety plan.



## **6.0 THE EFFECTS OF THE CDM REGULATIONS AT STAGES IN THE CONSTRUCTION PROCESS**

Having outlined the main elements of the CDM regulations (section 2), the roles and responsibilities of the various players (section 3) and the composition of the health and safety plan and file (section 4), this part of the report examines the general effects of the regulations through the various stages of the construction process. The format for this section of the report is based on the CIRIA interim report on the CDM Regulations<sup>1</sup>.

### **6.1 FEASIBILITY**

The view has been expressed, by groups investigating the CDM regulations, that health and safety considerations should be taken into account at the feasibility stages of development.

### **6.2 DESIGN PRIOR TO THE APPOINTMENT OF THE CONTRACTOR**

#### **1. Concept/Outline Design**

At this point the health and safety problems emanating from the features of the site can particularly be isolated and adjustments made accordingly to the design.

Also, the design of the project tends to be more easily adjusted to combat any problems, because it is unlikely to be precisely defined at this early stage.

## 2. Scheme/Detailed Design

As the design becomes more detailed, the consideration of the health and safety factor in design also changes - transferring from the general considerations covered at stage 1 (above) right through to an examination of specific components within the building.

The onus will be for the design team to focus more closely on practical situations which may arise on site. Meanwhile the planning supervisor should over see the development of the health and safety plan and the inclusion of design information in the health and safety file.

The health and safety file should be a constantly developing document, which includes substantial quantities of information and detail. However, the design team does not have to provide a file or plan that is *idiot proof*. The regulations suggest that the designer has to expect the contractor to be competent in dealing with “commonplace hazards” and be able to take appropriate action.

### **6.3 PROCUREMENT STAGE**

The only real effect of the CDM regulations in this sector is the need for a closer examination of the safety record of the contractor to be engaged.

There is also a duty to be satisfied that the contractor appointed is capable of carrying out the works to a suitable standard.

These tasks may be achieved through a discussion of the planning supervisor's health and safety plan, with the prospective contractor.

### **6.4 CONSTRUCTION STAGE**

As is traditionally the case, the contractor remains entirely responsible for the health and safety on site.

Throughout this stage it is the responsibility of the planning supervisor (or a person appointed by him) to continue to update the health and safety file.

### **6.5 POST CONSTRUCTION**

As indicated previously the significant role of the CDM regulations in the post construction phase is as part of the maintenance plans for the building. Particularly through the use of the health and safety file.

## **REFERENCES**

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<sup>1</sup> **Construction Industry Research and Information Association; Report 145: CDM Regulations - Case Study Guidance For Designers: An Interim Report; March 1995**

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