

Goodbye CDM coordinator, hello principal designer

The Construction (Design and Management) (CDM) Regulations have been revised for the second time since 1994, with the Construction (Design and Management) Regulations 2015 which came into force on 6 April 2015.

The 2015 Regulations place a greater responsibility on clients for the conduct and decisions of the people they employ to oversee health and safety. Under the new regulations, clients, consultants and contractors could all face increased liability and risk of legal action if health and safety standards are poor.

Perhaps the most significant change is that the official role of CDM coordinator will be abolished. Instead, clients will need to appoint a principal designer and principal contractor to fulfill their duties.

In circumstances in which:

- a CDM coordinator was appointed before 6 April 2015;
- work started on site before 6 April 2015; and
- completion is to be before 6 October 2015

the new CDM Regulations will not apply and you should continue to comply with the 2007 Regulations. For projects where work commenced on site after 6 April 2015, the new regulations will apply in full.

Transitional arrangements

Transitional arrangements are in place between 6 April and 6 October 2015 and will vary according to whether a CDM coordinator has been appointed and whether the construction phase has started. There are three different scenarios:

1. If a CDM coordinator has not been appointed by 6 April 2015 and the construction phase has not started, the client must appoint a principal designer as soon as practicable.
2. Where a CDM coordinator has not been appointed by 6 April 2015 and the construction phase has already started, the client may appoint a principal designer but it is not required to do so. If no principal designer is appointed, the principal contractor will be responsible for the health and safety file.
3. Where a CDM coordinator has been appointed prior to the transitional period, the client must also appoint a principal designer by 6 October 2015, after which the CDM coordinator will have no further role.

In practice, the principal designer role may need to be sub-contracted to the architect during the transitional period. The principal designer must be a designer who is responsible for preparing or modifying the design. Any existing CDM coordinators who are not actually designers are, strictly speaking, not qualified to be appointed as principal designers.

Increased client responsibility

There is an increased responsibility on the part of the client. Under the new regulations, the client should make suitable arrangements for managing projects to ensure that construction work can be carried out without risk to the health and safety of any person involved in the project.



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The client is expected to:

- notify the Health and Safety Executive (HSE) of any notifiable project (see below);
- appoint a principal designer and contractor in writing;
- take reasonable steps to ensure that the principal designer and principal contractor comply with their duties under the new CDM Regulations;
- ensure a construction phase health and safety plan is prepared by the principal contractor; and
- ensure a health and safety file is prepared by the principal designer.

Although the majority of the duties under the new regulations may well be delegated to others, ultimate responsibility for any breach of duty is likely to rest with the client.

New principal designer role

The principal designer will have primary responsibility for coordinating health and safety during the pre-construction phase, as well as liaising closely with the principal contractor, any other designers and the client during the construction phase to provide ongoing health and safety input during the works. Where the principal contractor is also a designer, the principal contractor may undertake the dual role of principal designer and principal contractor.

Notification

Under the new regulations, the threshold for notification of projects to the HSE has been raised. Notification is now required where there are more than 20 people working on site simultaneously at any point during the project and the project has a duration in excess of 500 person days.

Written construction phase plans

Written construction phase plans will be required for continuous review by the principal contractor (supported by the principal designer) for all construction projects. This requirement is most likely to impact upon smaller projects for which written construction phase plans were not previously required.

Competence and training

Under the old regulations, the client took responsibility for checking the competence and resources of all appointees. Under the new regulations, the client must take reasonable steps to satisfy itself that any designer or contractor it appoints is competent.

Domestic work

The new regulations will apply to domestic as well as commercial projects. In practice, domestic clients are likely to delegate the majority of their duties to a principal designer or principal contractor.

Summary

There is real potential for incurring cost and some inevitable confusion will arise, particularly during the transitional period. Rather than allowing the CDM coordinator to remain appointed to fulfil the requirements of the new regulations until the project is complete, the new regulations require the appointment of a principal designer from 6 October 2015 on existing projects creating two roles which could overlap and result in difficulties.

In addition, the fact that the new principal designer is required to be someone who either prepared or modified the design may well present challenges on certain projects where the project team may not have a dedicated designer who can also fulfill a health and safety role.

Whether the new regulations will achieve the HSE's aim of simplifying health and safety in relation to construction projects, therefore, remains to be seen.

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Comparison between CDM 2007 and CDM 2015

	CDM 2007	CDM 2015
Client	Applies to organisations or individuals for whom a construction project is carried out. Does not apply to domestic clients.	Applies to organisations, individuals and domestic clients (note, domestic clients can transfer duties to other dutyholders).
Client duties	<p>Option to elect if more than one client.</p> <p>Take reasonable steps to check suitable management is in place.</p> <p>Ensure prompt provision of relevant pre-construction information.</p> <p>A CDM Co-ordinator is to be appointed as soon as practicable after initial design or preparation work has commenced.</p> <p>Appoint a principal contractor after CDM Co-ordinator appointed.</p> <p>*client is deemed to be CDM Co-ordinator and principal contractor if none is appointed.</p> <p>*client is required to promptly provide CDM Co-ordinator with pre-construction information.</p> <p>*ensure principal contractor has prepared a construction phase plan before construction starts.</p> <p>*ensure CDM Co-ordinator has info for health and safety file.</p> <p>*retain and provide access to health and safety file.</p> <p>-</p>	<p>Option to agree if more than one client.</p> <p>Make suitable arrangements for managing a project.</p> <p>Pre-construction information must be provided.</p> <p>A principal designer must be appointed as soon as practicable and in any event before the construction phase begins.</p> <p>A principal contractor must be appointed as soon as practicable and before construction phase.</p> <p>The client must fulfil duties of principal designer and/or principal contractor if none appointed.</p> <p>-</p> <p>The client must ensure a construction phase plan is drawn up by the contractor/principal contractor.</p> <p>The client must ensure principal designer prepare a health and safety file (if more than one contractor).</p> <p>The health and safety file must be passed to the person taking client's interest.</p> <p>Notify the project to Health and Safety Executive.</p>

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<p>Designer</p>	<p>Design to avoid foreseeable risk.</p> <p>The designer should take reasonable steps to assist adequate compliance by others.</p> <p>*not commence unless CDM Co-ordinator appointed.</p> <p>*provide sufficient information for the health and safety file.</p>	<p>Design to avoid foreseeable risk.</p> <p>The designer should take reasonable steps to assist adequate compliance by others.</p> <p>-</p> <p>Provide sufficient information to assist other duty holders to comply/provide comprehensible information as soon as practicable.</p>
<p>Contractors</p>	<p>Required to manage works without risk to health and safety.</p> <p>Allow pre-construction time for planning.</p> <p>Comply with specific details of Part 4.</p> <p>*not commence unless Health and Safety Executive notified.</p> <p>*provide principal contractor with info for health and safety file.</p> <p>*take reasonable steps to comply with construction phase plan.</p>	<p>Required to plan, manage and monitor works without risk to health and safety.</p> <p>Provide each worker with supervision, instruction, information and training etc.</p> <p>Comply with specific details of Part 4.</p> <p>-</p> <p>-</p> <p>Draw up a construction phase plan (if sole contractor).</p>
<p>CDM Coordinator (2007) Replaced with Principal Designer (2015)</p>	<p>*advise client on measures to comply and suitability of construction phase plan.</p> <p>*identify, collect and pass on pre-construction information.</p> <p>*liaise with principal contractor regarding design development.</p> <p>*take reasonable steps to co-operate designers and principal contractor.</p> <p>*take reasonable steps to ensure designers comply with their duties.</p> <p>*prepare/update health and safety file.</p> <p>*notify project to Health and Safety Executive.</p>	<p>Plan, manage and monitor pre-construction phase/identify, eliminate and control foreseeable risk of project.</p> <p>Co-ordinate health and safety during pre-construction phase.</p> <p>Liaise with principal contractor throughout.</p> <p>Assist principal contractor to prepare construction phase plan/Ensure duty holders co-ordinate in pre-construction phase.</p> <p>Ensure designers comply with duties.</p> <p>Prepare/update health and safety file.</p> <p>-</p>

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Principal Contractor*	<p>*plan, manage and monitor construction phase.</p> <p>Prepare update and arrange for implementation of construction phase plan.</p> <p>-</p> <p>Provide contractors with relevant parts of the plan.</p> <p>Ensure suitable welfare facilities are provided from the start and maintain throughout the construction phase.</p> <p>Ensure site inductions are carried out.</p> <p>Consult with workers.</p> <p>Liaise with CDM co-ordinator regarding on-going design.</p> <p>Secure the site.</p>	<p>Plan, manage and monitor construction phase.</p> <p>Prepare, review and update construction phase plan.</p> <p>Co-ordinate health and safety matters during construction phase.</p> <p>-</p> <p>Ensure welfare facilities are provided throughout construction phase.</p> <p>Ensure site inductions are carried out.</p> <p>Consult with workers.</p> <p>Liaise with principal designer.</p> <p>Secure the site.</p>
All duty holders	<p>Must not appoint or accept an appointment unless competent.</p> <p>Shall co-operate with others.</p> <p>Co-ordinate activities.</p>	<p>Must have skills, knowledge experience and organisational capacity.</p> <p>Must co-operate with others.</p> <p>Provide information or instruction as soon as is practicable.</p>
When is a project notifiable?	<p>Longer than 30 working days; or exceeds 500 person days.</p>	<p>Longer than 30 working days AND more than 20 workers working simultaneously; or exceeds 500 person days.</p>
Supporting documents	<p>ACOP</p>	<p>CITB issued Guidance</p>

*Applies to notifiable projects only

Note this comparison is a guide only, not a definitive statement of the full requirements of the new regulations, and is not to be relied upon as a substitute for taking legal advice.

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If you would like to discuss any of the issues raised in this update, please contact:



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