

Introduction

This information paper gives guidance on the client's duties under the Construction (Design and Management) Regulations 2007 (CDM²⁰⁰⁷ Regulations). If you are a client you have specific duties to carry out.

The CDM²⁰⁰⁷ Regulations came into force on 6th April 2007 and replace the Construction (Design and Management) regulations 1994 and the Construction (Health, Safety and Welfare) Regulations 1996.

The key aim of CDM²⁰⁰⁷ is to integrate health and safety into the management of the project and to encourage everyone to work together to:

- improve the planning and management of projects from the very start;
- identify hazards early on, so they can be eliminated or reduced at the design or planning stage and the remaining risks can be properly managed;
- target effort where it can do the most good in terms of health and safety; and
- discourage unnecessary bureaucracy.

The CDM²⁰⁰⁷ Regulations place duties on all those who contribute to the health and safety of a construction project. Duties are placed upon clients, designers and contractors and the Regulations create a new duty holder - the CDM co-ordinator. They require certain documentation to be developed during the life of the scheme – pre-contract information packs, health and safety plans and the health and safety file.

The degree of detail as well as the time and effort required to comply with your legal duties need only be in proportion to the nature, size and level of health and safety risks involved in the project. Therefore for small projects with minimal health and safety risks, you will only be required to take simple, straightforward steps and few, if any, specialist skills will be needed.

To which projects do the CDM²⁰⁰⁷ Regulations apply?

The CDM²⁰⁰⁷ Regulations apply to all construction work. Construction Work is defined in detail in the Statutory Instrument; however the following are NOT Construction Work as defined

- putting up and taking down marquees and similar tents designed to be re-erected at various locations;
- general maintenance of fixed plant, except where it is done as part of other construction work, or involves substantial dismantling or alteration of fixed plant which is large enough to be a structure in its own right;
- tree planting and general horticultural works;
- positioning and removal of lightweight movable partitions, such as those used to divide open plan offices or to create exhibition stands and displays;
- surveying – including taking levels, making measurements and examining structures for faults;
- work on or to vessels such as ships or mobile offshore installations;
- off-site manufacture of items for later use in construction work.

Additionally there are projects which are classed as being Notifiable. With the exception of works for domestic clients, the HSE MUST be notified where construction work is expected to:

- last more than 30 days; or
- involve more than 500 person days, for example 50 people working for over 10 days

All days where construction work takes place count towards the period of construction work. Therefore if a project does not work on weekends it will be 6 weeks before it becomes Notifiable.

As stated above, the CDM²⁰⁰⁷ Regulations do not apply to Domestic Clients. Domestic Clients are defined as those having works carried out on their own home or the home of a family member, that does not relate to trade or business, whether for profit or not.

What are the client's duties under the CDM²⁰⁰⁷ Regulations?

You have the following duties under the CDM²⁰⁰⁷ Regulations for ALL projects:

- Check the competence and resources of all appointees;
- Ensure there are suitable management arrangements for the project including welfare facilities;
- Allow sufficient time and resources for all stages
- Provide pre-construction information to designers and contractors

Additionally, if the project is Notifiable you have to:

- Appoint a CDM Co-ordinator
- Appoint a Principal Contractor
- Make sure the construction phase does not start unless there are suitable:
 - Welfare facilities, and
 - Construction phase plan in place
- Provide information relating to the Health and Safety File to the CDM Co-ordinator
- Retain and provide access to the Health and Safety File

Once appointed the CDM Co-ordinator and the Principal Contractor should be in post until the end of the construction phase

The CDM Co-ordinator also has duties which are designed to assist the Client in observing their duties and in facilitating the management of the project. These are as follows:

- Advise and assist the Client with his/her duties
- Notify the HSE
- Co-ordinate health and safety aspects of design work and co-operate with others involved in the project
- Facilitate good communication between Client, designers and contractors
- Liaise with the Principal Contractor regarding ongoing design
- Identify, collect and pass on pre-construction information
- Prepare and/or update the health and safety file

Appointing a CDM Co-ordinator

As stated above, on Notifiable Projects, you will have to appoint a CDM Co-ordinator (the CDMC). It is crucial for effective planning and establishing management arrangements that this is done as soon as practicable after the initial design work or other preparations for construction work have begun. **The CDMC needs to be appointed early enough to be in a position to be able to co-ordinate the design work and advise on the suitability and compatibility of designs, and therefore they should be appointed before significant detailed design work begins.** This would include preparation of the initial concept design and implementation of any strategic brief.

The CDMC can be an individual or a company and their role may be combined with that of another such as project manager, designer/architect or Principal Contractor. On a simple project it is anticipated that the CDMC could be a single person but on larger and more complex projects a team approach will be more common due to the technical skills required and amount of work to be undertaken.

To determine the competence of prospective CDMC, you will need to make enquiries to determine whether they have the skills and experience to carry out the duties of CDMC. This could involve looking at their previous track record, experience and general arrangements for carrying out the duties of the CDMC.

Providing information to the CDMC

You have to provide the CDMC with any information you possess that is relevant to health and safety of the project. This could be information about the site, the premises, work processes or activities where the construction work is to be carried out. You may have the information to hand (e.g. existing drawings) or you might have to arrange for surveys of the site or premises to obtain the relevant information (e.g. determining the location and presence of asbestos). It might also involve obtaining information from utility companies on the location of services. The CDMC will assist you in obtaining any information you do not have.

Appointing a principal contractor

For Notifiable Projects, before construction work starts, you have to appoint one competent and adequately resourced principal contractor to carry out or manage the health and safety aspects of the work. In most cases this will be the contractor who will be in charge of the construction work (e.g. the main, design and build or management contractor) but it could be an individual appointed to co-ordinate the construction phase of the project to ensure the health and safety of everybody carrying out the construction work, or who is affected by the work.

The Principal Contractor must be appointed as soon as you know enough about the project to select a suitable contractor. **Early appointment allows the Principal Contractor and others to make a substantial contribution to the buildability and maintainability of the end product.**

It is also a requirement of the regulations that enough time is given to the Principal Contractor to allow him to set up adequate welfare and site management facilities. **This period of time is to be notified to the Principal Contractor at the time of tendering for the work.** It should be noted that it is not the intention of the regulations to make the Client responsible for ensuring services are in place for the Principal Contractor, more that the Client will allow enough time in their preparation and planning to ensure that the Principal Contractor can obtain the necessary welfare facilities for the site. This may involve the early application by the Client for temporary water and power supplies and the provision of additional land for the placement of cabins and the like. The Principal Contractor will not be able to commence work on site until acceptable facilities are in place, no matter what the programme says!

Making arrangements for designers or other contractors to carry out work

If you arrange for a designer to prepare a design or for a contractor to carry out construction work, you have to be reasonably satisfied they are competent and are adequately resourced to carry out their health and safety responsibilities. This means that where you arrange for a designer to be novated to a contractor, when you nominate a preferred contractor or arrange for any designer or contractor to undertake work, you also have to be reasonably satisfied of their competence and resources.

Management Arrangements

For Notifiable Projects a competent CDMC must be appointed to assist the Client with the assessment of the adequacy of the management arrangements made by others in the project team. The Client is entitled to such advice when the CDMC is appointed

Before the construction phase begins

For Notifiable Projects, before construction work starts you have to ensure that suitable welfare facilities have been provided, and that the construction phase plan has been prepared by the Principal Contractor. You will be assisted by the CDMC in this requirement if requested.

Once the construction phase has begun, neither the Client nor the CDMC has a duty to check that the plan is updated as this is the responsibility of the Principal Contractor.

The health and safety file

For Notifiable Projects, the health and safety file is a record of information which tells you (and others who might be responsible for the structure in the future) of the key health and safety risks that have to be managed during future maintenance, repair or construction work. Clients need to ensure the file is prepared and kept available for inspection. It is a key part of the information, which the Client, or the Client's successor, must pass on to anyone preparing or carrying out work to which CDM²⁰⁰⁷ applies.

As soon as the CDMC is appointed you should discuss and agree a suitable user-friendly format for the file and what type of information it should contain. At the end of the project the file must be finalised and given to you by the CDMC.

What Clients don't have to do

You are not required or expected:

- Plan or manage construction projects yourself;
- Specify how work must be done;
- Provide welfare facilities for those carrying out construction work (though if facilities exists in an existing building near the work site it could be cost effective to provide access to these);
- Check designs to ensure the regulation 11 (Duties of Designers) has been complied with;
- Visit the site to supervise or check construction work requirements
- Employ third party assurance advisors to monitor health and safety standards on site (although there is no reason why not if deemed necessary)
- Subscribe to third party competence assessment schemes (although there is no reason why not if deemed necessary)

Changes in the Legislation

The CDM²⁰⁰⁷ Regulations come into force on 6th April 2007. Transitional Provisions have been made that allow for those already appointed as Planning Supervisor under the previous Regulations to continue as CDMC. The Client is expected to review the competency of the CDMC or Principal Contractor with 12 months.

If the CDMC or Principal Contractor were not appointed at the 6th April 2007 under the old regulations but are required under CDM²⁰⁰⁷ this appointment should be undertaken as soon as practicable.

References

Managing Health and Safety in Construction. Construction (Design and Management) Regulations 2007. Approved Code of Practice. L144 HSE Books 2007 ISBN 978 0 7176 6223 4

The Construction (Design and Management) Regulations 2007. S.I. 2007/320. Office of Public Sector Information (OPSI)