



Construction (Design and Management) Regulations 1994: The role of the client

Construction Sheet No 39

Introduction

This information sheet gives guidance on the client's duties under the Construction (Design and Management) Regulations 1994 (CDM Regulations). If you are a client you have specific duties to carry out.

The CDM Regulations are aimed at improving the overall management and co-ordination of health, safety and welfare throughout all stages of a construction project to reduce the large number of serious and fatal accidents and cases of ill health which happen every year in the construction industry.

The CDM Regulations place duties on all those who can 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 planning supervisor. They also introduce new documents - 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 CDM Regulations apply?

The CDM Regulations apply to most construction projects. However, there are a number of situations where the Regulations do not apply. These include:

- construction work other than demolition that does not last longer than 30 days and does not involve more than four people;
- construction work for a domestic client;
- construction work carried out inside offices and shops or similar premises without interrupting the normal activities in the premises and without separating the construction activities from the other activities;
- the maintenance or removal of insulation on pipes, boilers or other parts of heating or water systems.

People who as part of their business, construct houses for subsequent transfer with land (whether by sale or other means) to domestic clients are known as developers under the CDM Regulations and have duties as clients.

If you have any doubt about whether the CDM Regulations apply to your project, or whether you have legal duties as a client, you should contact your local HSE office.

Using an agent

If you wish, you can appoint someone else to carry out your duties as a client. The CDM Regulations allow you to appoint an agent for this purpose.

If you appoint an agent, you first have to ensure that they are competent to carry out your duties as a client. This may involve making enquiries about their previous track record, experience and management arrangements for carrying out these duties.

If you have decided someone will act as your agent a written declaration has to be sent to HSE by either you or the agent. The declaration should:

- = explain the agent is acting on your behalf;
- = include the name and address of the person making the declaration;
- = contain the exact address of the site;
- = be signed by or on behalf of your agent.

What are the client and client's agent duties under the CDM Regulations?

You have the following duties under the CDM Regulations, whether you are a client or client's agent:

- appoint a planning supervisor;
- provide information on health and safety to the planning supervisor;
- appoint a principal contractor;
- ensure those you appoint are competent and adequately resourced to carry out their health and safety responsibilities;
- ensure that a suitable health and safety plan has been prepared by the principal contractor before construction work starts; and
- ensure the health and safety file given to you at the end of the project is kept available for use.

If you arrange for someone to prepare a design or for a contractor to carry out construction work on the project,

you also have duties to ensure they are competent and are adequately resourced to carry out their health and safety responsibilities.

Appointing a planning supervisor

You have to appoint a competent and adequately resourced planning supervisor. You should make this appointment as early as possible during the design and planning work for the project so that they can carry out their duties and advise you if necessary on the subsequent appointment of others.

The planning supervisor has responsibility for co-ordinating the health and safety aspects of design and for ensuring the pre-tender stage health and safety plan is prepared. For more information on the pre-tender stage health and safety plan, read Construction Information Sheet No 42. The planning supervisor is also responsible for ensuring the health and safety file is prepared.

For most projects the planning supervisor will be an organisation (eg, architectural practice, consulting engineers, project managers or contractors) with design and construction experience and with relevant knowledge of health and safety. In some cases, particular expertise may need to be brought in. Except for the smallest projects it is unlikely the planning supervisor will be an individual.

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

Providing information to the planning supervisor

You have to provide the planning supervisor 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 (eg, existing drawings) or you might have to arrange for surveys of the site or premises to obtain the relevant information (eg, determining the location and presence of asbestos). It might also involve obtaining information from utility companies on the location of services.

Appointing a principal contractor

Before construction work starts, you have to appoint a 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 (eg, the main,

design and build or management contractor).

You could ask prospective principal contractors how they intend to deal with the health and safety issues highlighted by the planning supervisor in the pre-tender stage health and safety plan. This will help you determine whether the prospective principal contractor is competent and adequately resourced. Enquiries about their previous track record, experience, general arrangements for managing health and safety and references will also help in assessing competence. You can also ask the planning supervisor to advise you on the issues of competence and resources for health and safety. They have to do this if you request it.

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.

The Approved Code of Practice and the HSC publication *A guide to managing health and safety in construction* provide detailed guidance on the issues of competence and adequate resources for health and safety.

Ensuring a suitable health and safety plan has been prepared before construction work begins

Before construction work starts you have to ensure so far as is reasonably practicable that the principal contractor has prepared a suitable health and safety plan. You can ask your planning supervisor to advise you on whether the plan is suitable. They have to do this if you request it.

You are only expected to make a decision on whether the health and safety plan is suitable from the information which is available at the start of the construction phase. For many projects, not all information relevant to the project may be available to develop the health and safety plan fully before the construction phase starts. For example, not all the design work may have been completed or many of the subcontractors who will be carrying out the work have yet to be appointed. However, the health and safety plan should be sufficiently developed so that:

= the general framework for dealing with the management organisation, emergency procedures, arrangements for monitoring, communications, and welfare is in place; and

= it addresses the key tasks of the early work packages.

The degree of detail in the health and safety plan should be in proportion to the nature, size and level of health and safety risks involved in the project. Projects involving minimal risks will call for simple, straightforward plans. Large projects, or those involving significant risks, will need further detail. Further information about the contents of the health and safety plan is given in Construction Information Sheet No 43 The health and safety plan during the construction phase.

The health and safety file

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.

The planning supervisor has to ensure the health and safety file is prepared. They have to hand it over to you at the end of the construction work. You have to ensure that it is available to those who need it in the future (eg, maintenance contractors). Further information on the health and safety file is given in Construction Information Sheet No 44, *The health and safety file*.

Law

Health and Safety at Work etc Act 1974
Construction (Design and Management) Regulations 1994
Management of Health and Safety at Work Regulations 1992

References and further information

Construction (Design and Management) Regulations
7994 SI 1994 No 3140 HMSO 1995 ISBN 0 11 043845 0

HSC Managing construction for health and safety
Construction (Design and Management) Regulations
1994 Approved Code of Practice L54 HSE Books 1995
ISBN 0 7176 0792 5

HSC A guide to managing health and safety in construction HSE Books 1995 ISBN 0 7176 0755 0

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Construction Information Sheets:

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| No 40 | The role of the planning supervisor |
| No 41 | The role of the designer |
| No 42 | The pre-tender stage health and safety plan |
| No 43 | The health and safety plan during the construction phase |
| No 44 | The health and safety file |

These information sheets are available from your local HSE area office.

Other enquiries should be directed to HSE's Information Centre, Broad Lane, Sheffield S3 7HQ. Tel: 0114 2892345. Fax: 0114 2892333.

This guidance is issued by the Health and Safety Executive. Following the guidance is not compulsory and you are free to take other action. But if you follow the guidance you will normally be doing enough to comply with the law. Health and safety inspectors seek to ensure compliance with the law and may refer to this guidance as illustrating good practice.

Additional advice and information can be obtained from local offices of the HSE.

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