



CDM 2015: what commercial clients need to do

Shaping and sharing good practice in design and construction health and safety risk management





The aim of the CDM2015 Regulations is to make Health & Safety an essential and integral part of the planning and management of projects and to make sure that everyone works together to reduce the risk to the Health & Safety of those who work on the building or structure who may be affected by these works, or who will use it as a place or work once it's completed.

YOU AND THE REGULATIONS:

If you are about to alter, extend or demolish a building or structure, or thinking of putting up a new one, and this is in connection with your business, then the Construction (Design and Management) Regulations 2015 (CDM2015) place a number of specific duties on you as a construction Client.

A Client is an organisation or individual for whom a construction project is carried out. Commercial Clients are those whose project is associated with a business or other undertaking (whether for profit or not). This can include, for example, local authorities; school governors; insurance companies and project originators on Private Finance Initiative (PFI) projects. Domestic clients also have duties under CDM2015. Domestic clients are people who have work done on their own home or the home of a family member, that does not relate to a trade or business, whether for profit or not. Refer to the separate APS advice document entitled "CDM2015: What Domestic Clients Need To Do".

The extent and complexity of commercial Clients' duties is likely to vary depending on the size and type of project involved – and many inexperienced Clients may need a CDM Adviser to help manage these duties. On projects that are likely to involve more than one contractor, you are required to appoint a Principal Designer before significant detailed design work starts, to advise and assist you with your duty to provide information about your building or structure to all designers and contractors. Significant detailed design work includes preparation of the initial concept design, master planning or implementation of any strategic brief. Your appointed Principal Designer may be able to act as your CDM Adviser in relation to Client's duties, but are not required to do so by the Regulations.

Advantages for You: If everyone involved in your project complies with the CDM Regs, they will help to:

- Improve planning and management and so help ensure that the project is completed on time, within budget and to the required standards;
- Reduce costs, delays and bad publicity resulting from accidents or ill health;
- Make sure that cleaning, maintenance and repair issues have been thought through as design work progresses;
- Reduce whole life costs of the building / structure;
- Provide useful information for the maintenance and possible future development of the building/structure.

The Regulations recognise that as the Client, you hold the power to influence and control those you engage or appoint on a project, and therefore that the ultimate responsibility for the achievement of a safe project is in your hands as much as theirs.

The Regulations are about making sure that there is:

- Early appointment or engagement of capable key people or organisations that have sufficient skills, knowledge, experience and resources;
- Early identification and reduction of construction risks and proper management of those that remain, so that construction is safe and does not damage the health of workers or others;
- Co-operation between all involved in a project and effective coordination regarding Health & Safety issues;
- Adequate welfare facilities provided from the start and throughout the construction phase

and that:

- Appropriate information is made available to the right people at the right time, from the start of the design process through construction, use (if a place of work) and maintenance, and eventually to the demolition or removal of the building or structure, so that work can be carried out safely and without risk to health.
- However, it is important that the amount of effort devoted to managing Health & Safety is kept appropriate and proportionate to the complexity of the project and level of risk.

WHAT TYPE OF PROJECT ARE YOU PLANNING?

Irrespective of size or duration, the CDM2015 Regulations separates construction projects into two types - dependent on how many contractors will be involved in the project.

The two types are:

- **Projects with only one contractor** - where the project will only require one contractor working on the site. An example of this might be an electrician rewiring part of a building when no other trades are required to do any work.
- **Projects that are likely to involve more than one contractor¹** - this will be the majority of projects. If the work will require a bricklayer, electrician, plumber, roofer and plasterer, that is five contractors.

If you are in doubt, you should assume that the project will require more than one Contractor. Your Health and Safety Adviser, designer or contractor if already appointed should be able to help you decide or you can contact The Association for Project Safety (APS) as a source of independent advice.

¹ More than one contractor means where there will be more than one trading business involved on the project. The only exception is where a single Contractor directly employs all trades working on the project.

YOUR DUTIES AS A CONSTRUCTION CLIENT:

There are duties for you that apply to ALL projects and additional duties that apply to projects with more than one contractor.

On ALL projects you will need to:

- Appoint or engage people and organisations that have sufficient health and safety skills, knowledge and experience to enable them to carry out the work they have to do and are adequately resourced. You are expected to make reasonable enquiries with each of the individuals or organisations that you employ;
- Ensure that all appointments are made early enough to enable those appointed to carry out their duties effectively;
- Make suitable arrangements for managing the project and make sure they remain in place and are reviewed throughout the project, so that construction works can be carried out safely and without risk to health. You may need a CDM Adviser to assist you with this duty;
- Make sure sufficient time and resources are allocated for each stage of the project, including design, preparation for starting on site and the construction work itself;
- Provide pre-construction information as soon as practicable to every designer and contractor you appoint, so that they can comply with their duties. If appointed, your Principal Designer can assist you with this duty;
- Ensure that, before the construction phase commences, a suitable Construction Phase Plan is drawn up by the contractor. Your CDM Adviser could assist you with this duty;
- Be satisfied that suitable welfare facilities are provided by Contractors from the start and throughout the construction phase. Your CDM Adviser could assist you with this duty;
- Notify the Health and Safety Executive of the project if the construction phase is likely to last longer than 500 person days or last longer than 30 days with 20 or more people on site at any one time. Your CDM Adviser can assist you with this duty.

The Regulations mostly require you to ensure that a number of things are done rather than actually do them yourself.

On Projects where it is likely that there will be more than one contractor working, you MUST, in addition to those duties above, make sure that you:

- Appoint a designer with control over the Pre-Construction Phase Health and Safety as 'Principal Designer'. The appointment must be in writing. The Pre-Construction phase means any time that design work is taking place and this phase will usually continue well into, and overlap with, the construction phase;
- Appoint a contractor as 'Principal Contractor' as soon as is practicable before the construction phase commences, to plan, manage and monitor the construction phase. This might typically be once tenders are received, but can be as soon as a Contractor is brought onto the project team;
- Ensure that the Principal Designer and Principal Contractor comply with their duties;

The Principal Designer must:

- plan, manage and monitor the pre-construction phase and coordinate health and safety matters to ensure that, so far as is reasonably practicable, the project is carried out without risks to health or safety;
- assist you in the provision of pre-construction information;
- co-ordinate arrangements for Health & Safety during the design and planning (pre-construction) phase.

- liaise with the Principal Contractor for the duration of the Principal Designer's appointment and share relevant health and safety information.

The Principal Contractor must:

- plan, manage and monitor the construction phase and coordinate health and safety matters to ensure that, so far as is reasonably practicable, the construction work is carried out without risks to health or safety;
- liaise with the Principal Designer for the duration of the Principal Designer's appointment and share relevant health and safety information;
- make and maintain arrangements for effective cooperation of matters relating to health, safety and welfare of workers;
- consult with workers on matters that may affect their health, safety and welfare;
- Ensure that the Principal Designer prepares a Health and Safety File for the project. Agree the contents and format of the Health & Safety File and provide the Principal Designer with relevant information for this document. The Principal Designer will ensure the 'Health & Safety File' is prepared, reviewed or updated (as appropriate) ready for handing over to you on completion of the work, with the co-operation and assistance of all Designers and the Principal Contractor. This is an important legal document;
- Keep the Health & Safety File safe and make it available to anyone who may need it in the future, and explain its purpose to them. You must also update it whenever necessary. When you dispose of your interest in the structure you must also pass on the File to those acquiring it.

Once appointed, your 'Principal Designer' will carry out their duties but until you make this appointment you will be deemed to be carrying out the Principal Designer's duties yourself. An early appointment is not only required but also makes a lot of sense!

Don't forget that once appointed your Principal Designer may be able help you carry out your duties under the Regulations and may well be able to give further advice and guidance. However, if the Principal Designer cannot assist you to discharge your duties, and you do not feel able to undertake the duties yourself, you should consider appointing a CDM Adviser to assist you.

On simple, straightforward projects involving only one contractor a good designer or contractor should be able to advise you on how you can comply with your duties.

WHAT HAPPENS IF YOU DON'T CARRY OUT THESE DUTIES?

- If you fail to appoint a 'Principal Designer' or 'Principal Contractor' you will be legally liable for their duties and will be deemed to be carrying them out;
- You could leave yourself open to potentially very expensive legal action;
- You could face criminal prosecution by the HSE, and
- You will miss the opportunity to gain from the advantages listed above.

NEED HELP?

Getting the right people to do what they are supposed to do under these regulations is particularly important when you don't have much experience of construction or Health & Safety, so you need to be reasonably sure that those you appoint are capable of carrying out their work on your particular project in a safe and healthy manner.

Members of the Association for Project Safety are able to provide advice and assistance on all types of projects – and depending on their business model may act as Principal Designer or your CDM Adviser to assist you with Client duties (or both) – whilst the Professional Institutions should be able to help with this as well and the selection of suitable Designers and Contractors.

The Association for Project Safety is not the only source of CDM Advice. However, a key Client duty is that Clients appoint only those who have appropriate Skills, Knowledge and Experience in design and construction Health and Safety and APS membership is one way for someone to demonstrate that they not only have those requirements but are also committed to maintaining high standards through regular Continuing Professional Development.

All APS Corporate (Business) Members have had their CDM procedures audited against ISO 9001 and are accredited by the Safety Schemes in Procurement (SSIP) organisation as having met the criteria for organisational capability to deliver Principal Designer and Designer services. APS further audits their business members for CDM Adviser to Client and CDM Consultant to the Principal Designer services.

Incorporated (IMaPS), Certified Members (CMaPS) and Fellows of APS (FaPS) have at least five years experience in the construction industry and have committed themselves to a programme of Continuing Professional Development (CPD).

If you need any further information or independent advice on undertaking your CDM Regulations duties, please contact:

The Association for Project Safety
5 New Mart Place
Edinburgh EH14 1RW
Email: info@aps.org.uk

You can visit the HSE and APS websites for much more information at: www.hse.gov.uk and www.aps.org.uk respectively.

FORMS OF APPOINTMENT

Industry standard Forms of Appointment are available for use by Clients, Principal Designers and Advisers to both Clients or Principal Designers. These provide a clear and concise wording for the discharge of duties under the Construction (Design & Management) Regulations 2015 and other services, protecting both the Client and Principal Designer or Adviser. These Forms can be purchased in hard copy format from the APS Online Shop at www.aps.org.uk/shop/documents.htm. They are also available in a digital format for completion online at <http://aps.legallio.com>



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