

PRE-CONSTRUCTION HEALTH, SAFETY AND BUILDING REGULATIONS INFORMATION FOR CLIENTS/ Architects/ contractors

introduction

This information sheet is aimed at professionals working within the Construction industry who may have some knowledge/experience of CDM Regulations but, don't feel comfortable trying to implement the latest revision to the regulations, the Building Safety Act Amendment England came into force 1 October 2023 and now encompasses the CDM regulations. Smaller design practices are labouring under the misconception that because their work is mainly for smaller domestic projects the new regime does not affect them this is not the case the regulations exist to identify and control health and safety issues within all construction projects. It's true that the BSA exists mainly for higher risk buildings but the regulations apply to ALL construction work. New duty holders have been created under the new legislation and these duty holders now have more onerous duties to discharge. Those already familiar with the old (2007) CDM regulations will not have much difficulty adapting to the new regime. Most common thing catching architects/clients/designers out seems to be the need for two (2) Principal Designers per project e.g. CDM PD and BR PD similar to the old regulations both these appointments MUST be made by the Client in writing (formal contract)

The Construction (Design and Management) Regulations (CDM) and the Building Safety Act apply to all construction projects, and whilst Building Safety Act is mainly focused on larger and higher risk buildings, the Regulations are intended to make **all** buildings safer. The Regulations place specific duties on the Parties to a Construction Project. There is now the need for two (2) Principal Designers per project to be appointed CDM PD and BRPD (building regulations principal designer) these roles can be carried out by the same entity if the entity is competent and the project Client confirms this by a formal statement (within the electronic version of the notification of project to HSE form F 10)

Looking first at the CDM Regulations, on any project involving more than one (1) Contractor, e.g. groundworkers, bricklayers, scaffolders, roofers, joiners, electricians, plumbers, plasterers, decorators including domestic projects, the client's duties are:

1. To appoint a Principal Contractor and Principal Designer in writing, and ensure they carry out their duties.
2. To allow sufficient time and resources for the project to be properly and safely managed.
3. To ensure the design team and contractors are provided with suitable information (e.g. asbestos surveys, drainage plans) regarding the site at planning and pre-construction stages.
4. To ensure welfare facilities are provided on site.
5. To notify the HSE that work is taking place if required. (the PD may be requested to do this on the Client's behalf) confirmed in writing.
6. To ensure a construction phase plan has been developed and put in place during the works.
7. To keep a 'Health and Safety' file on completion for any future work to the building.

For domestic projects, clients duties (4), (5) and (6) will be automatically be passed to the appointed Principal Contractor **Note:** Principal Contractor's having the necessary skills, knowledge, experience required to fulfil these duties generally charge more for undertaking domestic projects than Commercial projects where the above duties fall to the appointed Principal Designer, although the obligations to appoint a suitably skilled team, provide sufficient time and resources, provide site/building information and maintain records on completion remain. With the Client. Domestic projects are where the client is building their own house or altering their existing house where they or family members reside and are not connected to any business activity.

To familiarise yourself with your obligations visit:

<http://www.hse.gov.uk/construction/areyou/domestic-client.htm>

W O'Brien will act as CDM Principal Designers and Building Regulations Principal Designer on Commercial and domestic projects where required to. Our appointments as CDM and BR Principal Designer for non-domestic projects must be agreed separately in writing, or the client will retain this responsibility by default. Our specific duties will be to:

- Identify and discuss the relevant risks during the pre-construction phase
- Eliminate those risks if possible or implement control measures required
- Ensure the cooperation of everyone on the design team
- Assess the adequacy of the information provided by the client and advise on where additional information is required
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- Provide Pre- Construction information to other consultants and contractors and liaise with the contractors for the duration of our appointment.

Health and safety requires collaboration from all parties. We can only base our documents and other guidance on our own non-obtrusive measured surveys and on information provided to us by the clients. It is the client's responsibility to therefore pass us all relevant information that they hold on the property. Usually drainage maps are not publicly visible so a CCTV survey or visit to local authority offices will probably be required if the client has no information on the existing drainage. Should any unforeseen risks be discovered on site, following commencement the Principal Designer must be notified to enable us to take all reasonable measures to work with the contractors to either eliminate the hazard or amend the design accordingly.

The CDM Principal Designer is not required to notify the HSE, advise on or monitor health and safety arrangements on site, check the contractors' construction phase plan, or take on overall responsibility for the project Unless specifically requested to and noted in the FOA (form of appointment)

On large scale projects, where the Architect/ Designer we may not have the capacity in house to deal with all the health and safety issues, they should appoint a CDM Advisor to provide the CDM Principal Designer duties to the architect/designer this appointment must be made by the architect/designer and the architect/designer is responsible for paying the fees of the CDM Adviser WO'B will take on a CDM Advisor as a sub-consultant under a formal appointment between WO'B and the architect/designer. The CDM Adviser role exists to assist architects/designers discharge their CDM Principal Designer duties and is not an alternative appointment that Client's may make instead of appointing a Principal Designer by "default the architect/designer for a project is the CDM Principal Designer until the Client appoints a Principal Designer to take over the CDM duties.

WO'B will provide architects/designers clients and contractors with:

Copy of any specialist surveys undertaken e.g. ecological, drains, asbestos R&D

Copy of the approved planning drawings

The Planning Approval / Certificate of Lawfulness reference with key conditions noted

Copy of the working drawings and any engineers' calculations The Building Regulations application reference.

Details of any other approvals sought e.g. permits to excavate in highway ,permits to erect scaffold over public footpath

Details of all consultants involved

Key information regarding the brief, the building and targets to be achieved Designers risk assessments where appropriate.

The Pre- Construction information will form the starting point of the client's Health and Safety file. Should any significant risks be discovered during construction, such as asbestos or contamination, it will be the responsibility of the client and the contractor to ensure the risks are adequately dealt with and documented in the Construction Phase Plan and added to the Health and Safety file on completion of the project.

On completion of this Pre-Construction Information (PCIP) , the client will be obliged to provide the PCIP to the contractors tendering for the work with instructions to submit a draft Construction Phase Plan with their tender . The Client must also remind any Principal Contractor already appointed that work onsite must not start until the client formally authorises the commencement on site CDM reg 5 .

Where we are not involved with the appointment of a Principal Contractor, it will be the client's responsibility to pass all the information on to the prospective Principal Contractor. With written instructions to develop the Pre- Construction Information into the Principal Contractor's developed" Construction Phase Plan and submit a "draft" copy for the Principal Designer's attention.

For Building Regulations projects our Pre- Design information pack will be passed to the architect/Designer with instructions to develop the Pre-Design Information into the Architects/ Designers Pre- Design Phase plan. At the end of the project the client must obtain from the Principal contractor all paperwork relating to the operation and maintenance of the building including all certification, warranties and handbooks to add this to the Health and Safety file O & M Manual This completed file must be kept for future occupants to inform all future works on the building.

At Practical Completion formal statements will be required from the Client, Principal Contractor, contractors confirming that the completed structure complies with the Building Regulations Building Control will not provide completion certificates without sight of these statements. .

From October 2023, the Building Safety Act 2023 introduced additional responsibilities for both the client and the Principal Designer.

Under this legislation, the **CDM client's** duties are to:

1. Make suitable arrangements for managing a project
2. Ensure construction work can be carried out so far as is reasonably practicable without risks to the health or safety of any person affected by the project .
3. The facilities required by schedule 2 and regulations 4(b), 13(4) and 15(11) are provided in respect of any person carrying out construction work
4. Ensure that before the construction phase begins a construction phase plan is drawn up by the appointed Principal Contractor .
5. The Principal designer prepares a health and safety file O & M manual for the project revised from time to time as appropriate to incorporate any relevant new information and is kept available for inspection by any person who may need it to comply with the relevant legal requirements.

We are available to help you with these duties, and by appointing a competent communicating team and sharing the information you have on your building, you will be meeting your obligations.

The **Building Regulations** Principal Designer duties are:

1. Planning, managing and monitoring the design work during the design phase.
2. Setting a plan for ensuring the design can be compliant with Building Regulations and controlling any changes to the plan during the project to completion. The Principal Designer

- will ensure the designs are checked by Building Control or an Approved Inspector prior to work commencing and make any changes that are required for the design to be approved.
3. Coordinating the work of the other designers and ensuring the other designers are competent to provide designs that are compliant, and that all parties coordinate with each other.
 4. Liaising with the Principal Contractor and sharing information throughout the design phase.

The Principal Designer is responsible for taking all reasonable steps to ensure that the design, as a whole, is Building Regulations compliant. For smaller domestic projects, WO'B will act as Building Regulations Principal Designers. As well as he CDM Principal Designer, our appointment for **all** projects must be agreed in writing. Where this agreement has not been made, the architect/designer will retain the duty of Principal Designer by default.

To carry out the role as Principal Designer, we need to have control of the design throughout the project. However, we know that many clients do not require our involvement through the building work, and our appointment can end before work starts on site. So long as we are notified in advance of any design changes that occur after the end of our appointment, and we are given the opportunity to review these and arrange for the drawings to be amended accordingly accordingly, we will maintain our role as Principal Designers. But, We will charge an hourly rate for site visits and changes to drawings after the end of our agreed appointment.

However, sometimes the client and builder may agree design changes after our appointment has finished without our knowledge. Sometimes, where we are not appointed to prepare detailed Pre-construction information, the client will be relying on the contractor to ensure that the design is Building Regulations compliant, and so we will do the following:

1. Where we have produced detailed Pre- Construction information I, we will ask you to confirm in writing at the end of the project that the building work was built strictly in accordance with the designs.
2. If the client cannot do this, or the architect/designer as only produced planning level drawings, we will ask you for written confirmation that the responsibilities of the Principal Designer (listed above) have been formally passed to the contractor, or you (as client) have accepted these yourself.

On more complex jobs, the Principal Contractor may be responsible for co-ordinating a number of designers, such as the suppliers of the beam-and-block floors, roof trusses, windows, staircase, heat pump or MVHR (mechanical ventilation heat recovery system). Again, if this is happening after our appointment has ended, we will ask you, as client, to confirm in writing that that the responsibilities of the Principal Designer have been formally passed to the contractor.

For Higher Risk Buildings. These are buildings over 18m high, or 7 storeys, containing two or more dwellings. Should the scope of work evolve during the design phase into a Higher Risk Building, W O'brien will have to terminate our appointment to enable another Principal Designer to take on the project.

Similarly, we are obligated to only accept appointments that we are competent and experienced in managing. We will therefore not accept appointments for basements, swimming pools, timber frame structures or external wall insulation/cladding. Where the project requires these elements, other specialist firms should design them and must take on the role of Principal Designer to coordinate our work with ours. Clients are requested to ask if they need any assistance in understanding their obligations under The Construction (Design and Management) Regulations

2015 and the Building Safety Act 2023. We are here to help you meet your duties and ensure that your building is both safe to build, occupy and maintain for the long term.