

WHAT COMMERCIAL CLIENTS NEED TO DO: TO COMPLY WITH CDM 2015



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1.0 Introduction to the Guide

Within the UK, the Construction Industry is one of the most dangerous to work in, with over 30 fatalities each year and around 3000 major injuries. All those involved within the construction process have a key role to play in reducing accidents, incidents, and cases of ill health. Although health and safety statistics show that there has been a downward trend in recent years, these numbers are still alarming and much more needs to be done; after all, everyone has the right to arrive home from work safe and sound.

Arranging/managing building work?

This guide is aimed at you if you are a building owner, user or managing agent and are arranging maintenance, small- scale building work or other minor works carried out in connection with business as you will be a client with legal duties under the Construction (Design and Management) Regulations 2015 CDM 2015. Following the simple rules in this guide will help you to meet your responsibilities as a client and ensure construction work and repairs are undertaken safely and without damaging workers and other people's health.

What does CDM do?

Complying with CDM2015 will help to ensure that no-one is harmed during the work, and that the building is safe to use and maintain while giving you good value. Effective planning will also help ensure that your work is professionally managed with fewer unexpected costs and problems.

For Clients who are unfamiliar with the Construction Industry, there are specific health and safety responsibilities imposed upon them by The Construction (Design & Management) Regulations 2015; these duties cannot be ignored or overlooked.

Clients are given explicit duties under the CDM Regulations, as quite often Clients are the ones who dictate how health and safety is implemented on a project. After all, Clients hold the purse strings, make the key appointments of the project team, dictate timescales, and so on. It's therefore no surprise that Clients have an important role to play in health and safety.

For many Clients, complying with the requirements of CDM can be frustrating and can create uncertainty as to whether they are doing the right thing or not. The CDM Regulations are no different to many other types of regulations; if you don't eat and breathe them, day in day out, they can easily be misinterpreted or misunderstood, resulting in you failing to meet your statutory obligations. This CDM Guide aims to assist Commercial Construction Clients in complying with the CDM Regulations 2015 by identifying the health and safety duties imposed upon them, and to clarify what needs to be done to comply with the regulations, as well as ensuring that health and safety is a fundamental aspect of your project.

2.0 What are the CDM Regulations 2015?

Construction (Design & Management) Regulations 2015 came into force on 6th April 2015 and are the main set of regulations for the management of health, safety, and welfare on construction sites. The aim of the CDM Regulations is to ensure that health and safety is an integral part of the planning and management of a project, with the overall objective being to protect the health and safety of those involved in construction work and others who may be affected by these activities; including those who may clean and maintain the structure once it's complete.

The CDM Regulations are divided into 4 distinct sections

- 1, Introduction
2. General Management Duties
3. Additional duties when construction projects are “Notifiable to HSE
4. Duties relating to Health & Safety on Construction Sites (formerly Construction (Health Safety & Welfare Regs)

There are also a set of Schedules that are legally binding:

Schedule 1 – Information required on formal notification to HSE

Schedule 2.- Minimum requirements for Welfare Facilities

Schedule 3 – Written Inspection Report Requirements

4 – ACOP Approved Code of Practice L 153

All HSE Guidance has the following text in its preface:

Following this guidance is not compulsory and you are free to take other action, but if you do follow the guidance, you will normally be doing enough to comply with the law. An ACOP however, has a second paragraph. If it is shown that you did not follow the relevant provisions of the code, you will need to show that you have complied with the law in some other way, or a court will find you at fault.

Legal Duty Holders

- Client
- Designers
- CDM Principal Designer
- CDM Principal Contractor
- Contractor’s

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3.0 Who is a Client in Construction?

A Client under the CDM Regulations is an organisation or individual who has construction work carried out on their behalf. It has been agreed long ago with HSE that Client’s shall be the project budget holders or any other nominated named officer of that organisation

The CDM Regulations 2015 applies to all construction work. The definition of construction work is far reaching and briefly includes, but is not limited to, new builds, demolition, extensions,

refurbishments, renovation, fitting out, earth works, site clearance, repairs, maintenance, electrical or mechanical installations (or decommissioning of), painting and decorating etc.

There are two types of Clients under the CDM Regulations, there are Domestic Clients and Non-Domestic Clients (or Commercial Clients; in other words, those who have construction work undertaken in connection with a business, whether for profit or not). The regulations fully apply for Commercial Clients, whereas for Domestic Clients the duties under Regulation 7 are passed on to other Duty Holders.

what clients must do for all projects

- Ensure Contractors have suitable welfare facilities
- Any fixed workplaces are to be designed and comply with the requirements of the Workplace Regulations 1992
- Ensure relevant information needed by Contractors to manage their work safely is provided to them promptly.
- Allow sufficient time for each stage of the project
- Co-Operate with others concerned in the project to allow them to comply with their duties
- Ensure there are reasonable management arrangements in place to ensure construction works can be undertaken safely
- Co-ordinate their work with all others involved to ensure the safety of those carrying out construction and others who may be affected by the works.
- Ensure that proposed design team members **are competent** and adequately resourced to do the work, and are appointed early this applies to
 - Designers
 - Contractors
 - Other specialist team members

What Clients do not have to do:

Clients are not expected to

1. Plan or manage construction projects themselves
2. Specify how work must be done
3. Provide welfare facilities for those carrying out construction work
4. Check designs to ensure regulation 11 has been complied with
5. Visit the site to supervise or check construction work standards
6. Employ third party assurance advisors to monitor health & safety standards on site
7. Subscribe to third party competence assessment schemes

Clients also have duties under other legislation.

Sections 2 & 3 of HSWA, (Health & Safety at Work Act 1974)

The Management Regulations 199

Workplace Regulations 1992

Building Regulations

Fire Safety Regulatory Reform (fire safety) Order 2005 (RRO)

DDA Act

Control of Asbestos Regulations, 2012

Control of Lead at Work Regulations 1980

Electricity at Work Regulations 1989

Work at Height Regulations 2005

COSHH Regulations 2002

Manual handling operations 1992

Control of vibration at work Regulations 2019

Control of Noise at Work Regulations 2005

And many more

Regulation 25 (2) also states

Every person (other than the contractor carrying out the work) who controls the way in which any construction work is carried out by a person at work shall comply with the requirements of CDM Regulations 26- 44 In essence this requires anyone who asks for work to be undertaken is to ensure that it is carried out safely ad by **competent** capable staff Things can go wrong and people will end up in Criminal Courts.

Additional Client Duties Notifiable Projects Regulation 6 Clients must

- 1 Appoint CDM Principal Designer to advise/ assist the Client
2. Appoint a **Competent** Designer or Design team
- 3.Appoint a **competent** Principal Contractor to plan, manage the construction phase
4. Do not allow construction to start on site until the Principal Contractor has provided:

A suitable written Construction Phase Health and Safety Plan and suitable welfare facilities

5. Ensure that the Health and Safety File is:

- Prepared, reviewed, or updated ready for handover
- This must be available for future construction work

Note for Notifiable appointments if the Client does not make these appointments, then by default, they become legally liable for the work that the Principal Designer, Principal Contractor should do

Notifiable Projects

Must be notified to HSE (form f10) if they will

Last more than 30 working days or

Involve more than 500 person days

Commercial Clients – These are organisations or individuals for whom a construction project is provided to them carried out in connection with a business.

Domestic Clients – These are people who have construction work undertaken on their own home, or the home of a family member. Their duties are set out in regulation 7 of CDM 2015

Designer duties -

Who are Designers? .

Designers are those who have a trade or business which involves them in

- Preparing designs for construction work including variations
- Or arranging for their employees or others under their control to prepare designs

Therefore, Designers include

Anyone who specifies to **alter a design** or who **specifies the use of materials/goods** and a particular method of work Someone who insists on **specific materials** or a client who stipulates **a particular layout**. Anyone specifying how demolition, dismantling work, structural alteration, and temporary works including those designing auxiliary structures such as formwork, falsework, scaffolding

Those determining how buildings and structures are altered, for example during refurbishment, especially where this has a potential for safety and health issues e.g., a new sun terrace to a building.

What Designers should do

Designers must prepare designs with adequate regard to health and safety in both construction, future maintenance, and eventual dismantling Designers must provide adequate information in or with the design

Designers must ensure that they avoid hazards to:

Anybody carrying out construction works including demolition or taking down

Anyone who undertakes cleaning works in or on the structure at any time, or maintains the fixtures and fittings

Anybody who uses the building as a place of work

Anybody else who may be affected by this work, for example people using the building,

Customers or the public if shop premises.

Case Study 1

A large school was fined for failing to appoint a CDM Principal Designer which led to the unsafe removal of asbestos. He prosecuted the school and a director of the company responsible for the refurbishment works the HSe investigation found that from the initial design stages right through to undertaking the construction work it was inadequately planned. The court heard that neither the school, as Client or the Contractor had appointed a Principal Designer for the refurbishment project despite the project being notifiable and appointment was a requirement work of this size.

The school was fined a total of £60,000 and ordered to pay £13,000 IN COSTS

The Director of the construction company was found guilty of breaching section 37 of the Health & Safety at Work Act, he was also found guilty of breaching Regulations 11(3) and 18 (1) of the CDM Regulations 2015 and was fined a total of £10,000 with costs of £6,000

Case Study 2

A roll of roofing felt fell through a fragile roof light and struck a secretary working below

The Client should have ensured an adequate safe system of work was in place and that roof lights were adequately protected before roof refurbishment work started.

The Roofing Contractor should as a roofer, been aware that fragile roof lights need to be protected

The roofing Contractor Manager and the roofing operative were each given an 18-week prison sentence suspended for 12 months with 200 hours community service and each was fined £2,114 costs.

Case Study 3.

A plastic roof panel an operative was moving across gave way and he fell about two metres to the ground below and died. HSE investigation found a management company contracted a roofer to carry out repair work but failed to ensure the work was properly planned and organised, or if the contractor was competent to carry out the work. The Management Company who looked after property on behalf of the landlord were prosecuted by the HSE. They pleaded guilty and were fined £75,000 and ordered to pay costs of £11,153

Consequences what can happen if it all goes wrong?

All enforcement actions brought by the HSE are entered on their website for global viewing and placed in local newspapers/ magazines etc resulting in

- loss of reputation
- loss of business
- increased company insurance premiums
- removal from professional bodies such as
- Master Builders
- National Federation of Builders etc
- Managers/ directors can be personally liable there is no insurance cover possible for this type of event and persons must pay their own fines and costs
- Typical fines I Magistrates courts range from “10,000 to the maximum £20,000 this is the maximum amount a magistrate’s court can impose for any offence Crown Court penalties include unlimited fines and costs and periods of imprisonment with no limit on sentencing lengths.
- So How can W Obrien Health & Safety Management Help? W O’Brien are a health and safety consultancy specialising in CDM and Construction Health and Safety. Since CDM first edition 1994, we have been assisting Clients in complying with their health and safety obligations and providing the ongoing support that is needed.

We have a common-sense approach to CDM. Our friendly and approachable CDM Consultants possess the necessary skills and experience to help you fulfil your duties. We do not compromise on health and safety, but we do not over specify what is required either. We only recommend what is needed based on the level of risk associated with a project.

Save time and appoint W Obrien Health & Safety Management at the earliest opportunity, you will then have complied with the legal duty to appoint, and you will then have access to Bill’s 30+ years’ experience of planning/ managing, monitoring, identifying, controlling hazards in the High-risk Construction / Civil Engineering sectors to ease the burden. Contact us today to discuss exactly how we can do to ensure that you meet the health and safety requirements on your project. We have got the knowledge and insight of the construction industry that you need to successfully manage your project. .