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## HEALTH AND SAFETY COMMISSION

### Report on emerging findings of the consultation on proposals to revise the Construction (Design and Management) Regulations 1994 and the Construction (Health, Safety and Welfare) Regulations 1996

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Cleared by Jonathan Rees on 21 November 2005

#### Issue

1. This paper reports on the emerging findings of the recent public consultation on proposals for revised construction regulations and supporting material. It also seeks the Commission's view on the type of supporting material to be provided; and alerts it to recent correspondence from the European Commission (EC) regarding UK implementation of the Temporary or Mobile Construction Sites Directive (TMCS).

#### Timing

2. An early decision on the ACoP v guidance issue is needed, to allow the package to be developed appropriately.

#### Recommendation

3. That the Commission:
- notes the consultation's emerging findings (paragraphs 7 to 14);
  - gives its view on which of the options for supporting guidance material should be pursued (paragraphs 11 to 14); and
  - notes that there could be an impact on the CDM/CHSW timetable due to the EC's recent correspondence regarding the TMCS Directive (paragraphs 15, 16 and 21).

#### Background

4. On 8 March 2005, the Commission agreed to publication of a Consultative Document (CD) on proposals for revised construction Regulations and supporting guidance material (HSC/05/02). The proposals were developed, in close consultation with stakeholders, at the Commission's request (HSC/00/02, HSC/03/55 and HSC/03/93), and reflect 10 years' practical industry and HSE experience. Public consultation on the proposals ran from 31 March to 29 July 2005 and analysis of the responses is continuing. The proposals consolidate the current legislation, i.e. the Construction (Design and Management) Regulations (CDM) 1994 and the Construction (Health, Safety and Welfare) Regulations (CHSW) 1996, and aim to help industry by simplifying and clarifying the law; and to raise health and safety standards through improved planning and management of construction projects.

5. The consultation exercise was one of the most open, widespread and high profile undertaken by HSC/E. There has also been considerable informal consultation, both before and after the formal consultation period. About 2500 people attended a series of 25 events

around England and Wales, to learn about and discuss the proposals. These were organised in partnership with Constructing Excellence, the Institution of Civil Engineers (ICE) and CITB-ConstructionSkills. The Civil Engineering Contractors' Association organised similar events in Scotland. (An evaluation report of the online consultation is at Annex A, and a précis of ICE's independent report following the events at Annex B.)

## **Argument**

### Objectives of the revision

6. The CDM Regulations were innovative, but controversial. HSC and CONIAC developed a strategy (HSC/99/42) to address early concerns about the bureaucracy associated with CDM. This was reaffirmed (HSC/03/93) concluding that the CDM Regulations needed to be revised, and that the gains to industry were likely to substantially outweigh the costs. The objectives of the CDM/CHSW revision were agreed by the HSC in September 2003 (HSC/03/93).

### Consultation – Emerging Issues

7. The results of the consultation indicate strong overall support, from the key industry players, for the aims and structure of the proposals, although respondents felt more work was needed in some areas. Many detailed points are still being analysed. 275 respondents supported the proposed changes in general terms, with only 22 preferring the current Regulations and ACoP. 256 respondents felt that the CD represented the issues well, or very well, and only 19 felt that they were represented poorly or not well. This pattern was the same across all roles and sizes of respondent. Only one Trade Association (Rural & Industrial Design and Building Association) preferred the current Regulations.

8. Key issues are set out in paragraphs 9 to 14 below, and a further paper will be submitted, once further work has been done on those policies. The position, particularly on the notification threshold, may need to be re-evaluated in the light of EC questions. Other issues include assessing co-ordinator competence; timing of the project notification; and whether the proposals would, in practice, reduce bureaucracy.

9. Clients: there is a general acceptance that duties on clients should reflect the amount of influence they have over projects. However, more work is needed to ensure that the duties of one-off or occasional clients are reasonable.

10. Demolition: there is a clear demand for all demolition work to be notifiable, which would mean a reduction in the notification threshold. The HSE view remains that this would have no added value in terms of improving health and safety standards.

11. ACoP v Guidance: Q21 specifically asked consultees for their views on which format communicated most clearly what duty holders needed to do. There was strong, widespread support for an ACoP, rather than pure guidance. This view is shared by CONIAC and both the CBI and TUC, as stated in their responses.

12. It is vital that guidance material is clear and practical to aid both compliance and enforcement as well as HSC/E policy. Consultation responses indicate that the call for an ACoP is fuelled by the desire for regulatory certainty when, of necessity, the regulations have to be framed generally. Its authoritative legal status is also useful in persuading less compliant members of the industry. On the other hand, there is also a tendency to over-rely on the ACoP, while overlooking equally valuable guidance.

13. Since consultation we have considered the responses carefully, and taken further informal industry soundings. These confirm there is strong support for an ACoP, and also for

authoritative guidance. Virtually all the key players support an ACoP because of its regulatory certainty, but are willing to lead on producing integrated guidance. It is not necessary for HSE to lead on developing it, and we believe an industry lead should encourage practical ownership (and therefore use). We would work with the industry on developing the guidance, and its authority could be enhanced by HSC/E endorsement. This suggests the following options:

- a) Regulations only;
- b) Regulations and guidance;
- c) Regulations, ACoP and guidance;
- d) Regulations and short ACoP, with industry-produced guidance.

14. The Challenge Panel discussed the issue, and accepted that, as an ACoP currently exists, it would not add to administrative burdens on business. It would provide the desired regulatory certainty, encourage a proportionate approach and discourage excessive bureaucracy. Our preferred option (supported by the Challenge Panel) is therefore d).

#### TMCS Implementation Issues

15. The CDM/CHSW Regulations are our main vehicles for implementing the TMCS Directive, although some of its requirements are implemented through other health and safety regulations, e.g. the Management of Health and Safety at Work Regulations 1999 and the Work at Height Regulations 2005. The EC has written to the UK (and other Member States) as part of a Europe-wide review of the Directive, seeking clarification of several aspects of current implementation. Very different transpositions of the Directive prompted the inquiry. The main focus is around the roles of the co-ordinator and client.

16. We need to ensure that the Directive is properly and proportionately implemented, as discussed with the Commission (HSC/05/02) and the Challenge Panel. A reply is apparently on its way from the EC, offering a meeting to discuss the issues. This should identify any EC concerns about our proposed transposition of the Directive, and any significant impact on our review timetable. (It would be unhelpful to implement new regulations if the EC immediately concluded they did not fully implement the Directive.)

#### **Consultation**

17. This paper has been cleared through CONIAC and colleagues in HSE's Construction Division, Policy Group and Finance Policy Unit. HSE discussed the issues with its Challenge Panel on 11 November.

#### **Presentation**

18. Although feedback indicates that the method and style of the consultation have been welcomed, there has been some suggestion that the CD questions were designed to achieve the outcome desired by HSE. It is therefore especially important that due regard is seen to be taken of respondents' views and that the open interaction between HSE and stakeholders, which has existed throughout this project, continues.

19. To this end, HSE continues to work closely with a CONIAC Working Group and also plans to engage 2 industry secondees, primarily to work on addressing the issues raised by clients and designers and to help us to communicate in language that the industry understands. The online webcommunity will continue, using members as an informal sounding board during finalisation of the package.

## Costs and Benefits

20. The Ministerial Panel on Regulatory Accountability (PRA) cleared a partial RIA for inclusion in the CD. This envisaged total benefits of £1957 - 5918m against total net costs of £1009 - 2846m, based on estimated compliance over the 10 years appraisal period. A final RIA will be prepared in the light of consultees' comments. Q23 specifically sought information to inform this, but very little hard data was actually received. It is difficult to predict accurately the overall costs/benefits until refinement of the Regulations is near completion, but shortening the notification threshold, as suggested (see paragraph 10), could significantly increase the costs while the benefits are less obvious.

## Financial/Resource Implications for HSE

21. The CDM/CHSW revision project is funded from existing HSE Construction Programme resources. However, the EC requires a detailed response in relation to our implementation of the TMCS Directive. The shape of the revised Regulations is also dependent on the position taken by the EC, and additional work, possibly including a further consultation exercise, may be needed if substantial changes are required. The cost of the project from 2003 to 31 March 2006 is estimated at £704,354. This includes an estimated £100k to cover the 25 CDM presentations and planned secondments. The estimated cost of completion of the project over 2006/2007 is around £295k.

## Environmental Implications

22. The CDM/CHSW review fits well with the Government's strategy for sustainable development, as the CDM approach involves addressing health and safety issues at the design stage and this tends to reduce the whole life cycle cost.

## Other Implications

23. SMEs: the Regulations apply to large numbers of SMEs, as clients, designers and contractors. The Construction Clients' Group (CCG) and Federation of Master Builders (FMB) have been involved, via the CONIAC Working Group, in ensuring the revised legislation is workable for SMEs. **At the Challenge Panel's suggestion**, HSE will also present the proposals to the HSC Small Business Trade Association Forum, who should be able to give a clearer steer on how small businesses might understand the regulations, in particular the additional duty on clients, and may be able to facilitate their communication to small businesses.

24. Europe: see paragraphs 8, 15, 16 and 21 above.

## Action :

25. The Commission is asked to:

- a) note the consultation's emerging findings (paragraphs 7 to 14);
- b) give its view on which of the options for supporting guidance material should be pursued (paragraphs 11 to 14); and
- c) note there could be an impact on the CDM/CHSW timetable due to EC's recent correspondence regarding the TMCS Directive (paragraphs 8, 15, 16 and 21).

## CDS EVALUATION OF ONLINE CONSULTATION

### Background

1. For the Consultative Document (CD) on the Construction (Design and Management) (CDM) Regulations and the Construction (Health, Safety and Welfare) (CHSW) Regulations, a website was created to allow online consultation - <http://consultations.hse.gov.uk/consult.ti/conregs>
2. Set up under the Online Consultation system that is part of HSE's Communities system, the website:
  - contained documents relating to the consultation;
  - included details of events relating to the consultation;
  - provided a discussion forum for views on the consultation;
  - allowed responses to the consultation to be made using an online questionnaire (and saved in draft form);
  - allowed respondents to complete a response in their own format, eg Word document, and upload to the website.
3. The documents and discussions were viewable by anyone visiting the website, but to join in the discussion or submit a response they had to register on the website, eg submitting their name, email address, organisation. In total, 764 people registered as members on the website during the consultation.

### Online questionnaire

4. Although primarily undertaken online, printed copies of the CD were available from HSE Books. Consultees were asked to respond to 31 general questions relating to fundamental aspects of the proposals and consultation; and also given the opportunity to provide their views on specific parts of the draft regulations and guidance. To aid analysis, most of the questions required a "Yes" or "No" or multiple choice response, but offered an opportunity for additional comments to explain or qualify the response.
5. Members of the online consultation could choose to submit their response by answering the questions online. The questions matched those in the printed version of the CD, and were a mixture of multi-choice, level of agreement and free text. They were split into three distinct questionnaires on the website:
  - general questions;
  - comments on draft guidance;
  - comments on draft regulations.
6. In submitting their answers, respondents didn't have to complete all three questionnaires. In total, 113 people completed and submitted one or more of the questionnaires. There were:
  - 108 responses to the general questions;

- 13 responses to the comments on draft guidelines;
- 14 responses to the comments on draft regulations.

7. *(Note: responses may have been to part or all of the questionnaire)*

8. A number of people answered some questions but didn't submit the questionnaire. In total there were 43 responses left in draft form from a total of 41 members.

## **Responses made by document**

9. In addition to those who filled in the online questionnaire(s), 41 respondents uploaded a document containing their comments to the website.

## **Discussion forum**

10. Those who had registered on the site were entitled to submit messages to the discussion forum, and respond to other people's messages. During the life of the website, there were 70 separate messages posted with a total of 571 replies. These generated lively and passionate discussion of a wide variety of construction industry issues, as well as the finer points of the proposals themselves. However, occasionally the consultation manager had to put a message out to contributors to remind them of the need to keep to the subject.

## **Analysis of the questions relating to the online consultation**

11. Towards the end of the list of general questions, there were five questions, with a varying number of subsidiary questions, which asked for views about using the online consultation system. Some of the key points are highlighted below.

*(Note that the figures are taken from a total of 445 responses which includes all the different formats used to respond to the consultation.)*

## **Downloading the consultative document**

12. Less than half the respondents (43%) said they had downloaded the consultative document from the website. Of these, virtually everyone said they had printed out the document to read through. There was only a small percentage (16%) who felt that ordering a paper copy was preferable to downloading from the website.

## **Understanding the consultation system**

13. Of those who responded, only 2% said that they didn't understand the different ways of responding, while some 12% didn't feel that the site was easy to navigate.

## **Using the online questionnaire**

14. In completing the questionnaires online, 68% of those who responded said they found the process straightforward to use, while only 8% disagreed. These figures may be slightly distorted by the fact that 73 respondents were already members of an HSE community and so would be familiar with some aspects of the site, eg registration, discussions.

15. For future consultations, there was a mixture of views on whether respondents would use the online consultation system:

- 26% would complete an online questionnaire;
- 19% would upload a response document;
- 17% would download the consultative document but not respond online.

16. The answer was left blank by the remaining 38% of respondents.

17. Of those who responded, only 4% felt that the ability to save a draft of the response was not useful.

**18.** There was also a range of reasons for not using the online consultation system, but of those who didn't use the online system, over a hundred respondents didn't give a reason. The most popular reason was a preference for using paper (8%) followed by a desire to respond outside of the questionnaire format (5%) and problems with registering (2%).

**Joint HSE/Industry Consultation Roadshows**  
**(Extracts from independent report by the Institution of Civil Engineers<sup>1</sup>)**

### **Executive Summary**

Since 1994 the CDM Regulations have formed the backbone of Health and Safety Regulation relating to construction, design and management of projects in the Construction Industry. The revision of these Regulations illustrates the ever-growing emphasis on Health and Safety within the Construction Industry and the on-going importance these Regulations play in the eyes of the Health and Safety Executive.

Throughout the process of revising the CDM Regulations the Health and Safety Executive has been keen to engage with all stakeholders, in particular the Construction Industry, for they recognize that while they will generate the Regulations, it will ultimately be the Construction Industry who must adopt and use them. Subsequently the Construction Industry's input and support is imperative if the new Regulations are to be effective.

To engage with the CDM Regulation stakeholders a partnership between the **Health and Safety Executive, Constructing Excellence in the Built Environment, Construction Skills**, and the **Institution of Civil Engineers** was established with the express aim of running a series of Roadshows throughout England, Scotland and Wales. The Roadshows aimed to create a forum in which stakeholders could debate and discuss the proposed CDM Regulations, make suggestions and air concerns or support.

The Roadshows proved to be a popular method of two-way communication between industry and the Health and Safety Executive with approximately 2,500 people signing up to attend the events.

### **Questionnaire form**

The aim of the Roadshows was to engage the Construction Industry in the process of consultation on the revised CDM Regulations and not to be the main avenue for which responses were to be channelled. Thus a short, concise and easy to complete feedback form was designed, based on the questionnaire issued by the Health and Safety Executive with the Consultation documents, which would ascertain the general feelings of industry but would not detract them from submitting their views via the formal Health and Safety Executive questionnaire.

***The information received from the Roadshow feedback forms, the Roadshow Q&A sessions and from a workshop run at the Ipswich event on 5<sup>th</sup> May 2005 forms the basis for analysis and comment in this Report. In no way is it a reflection of the view/s of any individuals or organisations involved in the Roadshows.***

### **Audience**

The aims of the Roadshows were to:

Promote the revised CDM/CHSW Regulations to the Construction Industry.

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<sup>1</sup> The full report is available at:

<http://webcommunities.hse.gov.uk/ui/inovem.ti/group/cdm2006/view?objectId=30000>

Engage the Construction Industry in the CDM/ CHSW Regulations Consultation process.

To this end the Roadshows were open to all professionals, from all career stages, affected by the current and proposed CDM/CHSW Regulations in England, Wales and Scotland.

While certain professions within the Construction Industry did dominate some Roadshows the overall result was a broadly proportional representation. It was vital to achieve this to ensure that the Roadshows feedback reflected the full spectrum of views held within industry and was not a soapbox for any particular profession or viewpoint.

Question 1	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>Do you support the changes proposed?</b>	462	652	19	6	18

There was overwhelmingly support for the proposed changes to the 1994 CDM Regulations.

This support could be perceived to be recognition that the style and content of the current CDM Regulations (1994) are regarded as an effective way to tackle health and safety standards in the Construction Industry but that they need to be amended and updated to address perceived original oversights and the experience gained in the intervening 10 years.

However it could also be concluded that revisions to the CDM Regulations 1994 are required because health and safety issues and challenges were not adequately addressed when the Regulations were first established.

If the semantics of why it is felt the CDM Regulations 1994 require revisions are required are put to one side it is clear that there is not only support for change but change in the manner proposed.

The large number of individuals who attended the Roadshows also highlights how involved industry wants to be in the consultation process. This is encouraging, for while the Health and Safety Executive can decree regulation it will be industry that has to 'run' with it.

Ultimately the message appears to be that the Construction Industry believes that change is required and that they wish to be deeply involved in this process.

Question 2	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>Will the proposals reduce bureaucracy?</b>	68	563	424	67	31

The view expressed by those from industry who were present at the Roadshows suggests that there is a fairly even split in opinion as to whether the revised proposals to the CDM Regulations 1994 will reduce bureaucracy.

However what the question does not address is whether industry thinks there *should* be a reduction in bureaucracy.

There is a school of thought that welcomes bureaucracy under the rationale that it acts as a safety net against potential prosecution especially where it is felt there is a lack of clarity in the current and proposed CDM/CHSW Regulations. Likewise there is also the view that while some bureaucracy could certainly be lost many bureaucratic systems are not necessarily negative and that streamlining, rather than slashing, them may be preferable.

Indeed there are even be some situations, such as the implementation of competency tests, where bureaucracy may even be welcomed by the Construction Industry if it could be shown to provide clarity to often-ambiguous issues/areas. The message would therefore appear to be one of trying to achieve a balance between beneficial and helpful systems and unnecessary and time-consuming exercises. How to actually reduce or streamline bureaucracy is however a greater challenge.

It was suggested that in order to reduce bureaucracy there should be an early appointment of a competent Co-ordinator. It was then proposed that they would be responsible for producing, guided by an enhanced code of practice, a project specific pack for the Project Team to use. The focus would therefore be on the outcomes, particularly those of the team, and may result in the better dissemination of industry performance information.

Question 3	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>Should there be more specific competence requirements in the Regulations for duty-holders (e.g. Co-ordinators)?</b>	635	441	62	20	15

The overwhelming view of those from industry who attended the Roadshows was that there should be more specific competence requirements in the regulations for duty-holders. The magnitude of this support is illustrated by; 635 delegates strongly agreeing and; 441 delegates generally agreeing with this question.

This message suggests that the current CDM Regulations 1994 and the proposed CDM/CHSW Regulations still do not meet the level of specific competence requirements that the Construction Industry seeks.

While potential legal and financial motivations may influence this message it is compelling to observe a strong request from industry for greater competence specifications. Four specific areas were identified as being in need of specific competence requirements:

Corporate

Individual

Whole Supply Chain

Specific – Project relative.

The potential result of a push from the Health and Safety Executive and simultaneous demand from the Construction Industry could see a significant impact on the levels of and methods of gauging health and safety competence within the industry. Indeed it could also go some way to further integrating health and safety in the Construction Industry culture.

Question 4	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>There is a new duty on Clients to “ensure that arrangements are made ... For the managing the project ... without risk to H&amp;S” – do you support this?</b>	775	310	44	12	12

A strikingly clear message of agreement can be derived from the feedback to this question. Indeed the number of individuals strongly agreeing with this question is the highest of all the questions asked.

The support for this new duty appears to stem from the view that it is the Client who is best placed to understand the project needs and requirements. For, as the controller of budgetary and programme allowances the Client would therefore have the financial authority to influence health and safety issues at a core level and subsequently health and safety issues should receive additional attention from the inception of a project.

In turn it is suggested that this new duty on the Client will also result in the better production of documentation and flow of information within the Project Team.

However, there is also recognition that difficulties could arise in a scenario where a Client lacks the appropriate competency and is unwilling to seek the support they require. As such it is imperative that the competency requirements of all duty holders within the revised CDM/CHSW Regulations are clearly defined.

Question 5	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>19. Will the proposed Co-ordinator role be an improvement on the old planning supervisor role?</b>	231	622	226	39	35

There was a strong consensus that the proposed Co-ordinator role is an improvement on the old Planning Supervisor role.

It was suggested that by having a role, such as the Co-ordinator, that is responsible for health and safety, at all stages, of a project and also for co-ordinating the project life cycle there will be a greater focus on health and safety and clarity of the spheres of responsibilities of those on the Project Team.

The total ownership of a project's health and safety issues by one role may however cause negative repercussions if the Project Team does not feel that they too have some ownership over these issues. As the proposed Co-ordinator role is regarded and intended to be more independent than the Planning Supervisor this potential scenario may result in a lack of teamwork. Addressing this key issue will be vital for the success of the role of Co-ordinator.

Question 6	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>20. Is the new name Co-ordinator good?</b>	146	514	262	167	74

The feedback clearly indicates that there is overall agreement that the proposed title of Co-ordinator is good with 630 of industry delegates attending the Roadshows either in agreement or strong agreement. However, it is also noticeable that there is a smaller but still significant proportion of industry who are in general or strong disagreement with this view.

The general view would appear to be that the title Co-ordinator adequately reflects the duties and responsibilities set against the role of Co-ordinator in the proposed revised CDM Regulations.

On the Roadshow feedback questionnaire industry were asked to suggest alternative names and indirectly this gave them an opportunity to state what remits and responsibilities it thinks the role *should* encompass. Some of the suggestions were:

- H&S Co-ordinator
- Client Co-ordinator
- CDM Advisor
- Construction Planning Co-ordinator
- Design, Construction & Maintainability Co-ordinator
- Project Safety File Manager
- Project H&S Design Co-ordinator
- Design Co-ordinator
- Building Operations Scrutiny Surveyor – BOSS
- Project H&S Manager
- Project Supervisor

The plethora of alternative suggestions for the title Co-ordinator reflects the broad range of roles, functions and responsibilities that industry perceives the role to entail. Three areas of focus were prominent, Health and Safety, the Project and CDM, and could reflect industry’s perception of where the main focus of the role should be situated. The most popular alternatives to the title Co-ordinator appeared to be a Health and Safety Co-ordinator and a CDM Co-ordinator.

However the underlying view of the majority is that it is inconsequential what name is ultimately decided upon, as it is the duties not the name that matters. Subsequently while there was wide agreement that there should be strong references to the role and function of health and safety and it is immaterial whether this is achieved in a direct form through the use of Health and Safety Co-ordinator or inferred to as in the use of CDM Co-ordinator.

There were also indications that industry perceives some alternatives to the title Co-ordinator as a positive way of encouraging team working, an aim of the proposed Regulations, such as Partnering Co-ordinator, Team Safety Co-ordinator or Project Parties Representative.

The debate over the Co-ordinator title has been extensive and it is unlikely that any proposal will suit all parties involved. Indeed there have been calls for the title of Project Supervisor to be retained and some in the Construction Industry would go even further and question whether the role of Co-ordinator is required at all, suggesting that it should be removed from the regulations in it’s entirety.

Question 7	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>21. Should Co-ordinators be specifically empowered in the regulations to issue instructions/ directions to the designers or principal contractors?</b>	340	401	196	196	20

There is a strong majority in favour of the proposal that Co-ordinators should be specifically empowered in the regulations to issue instructions/directions to the Designers or Principal Contractors. However there is still a noticeable element of those who either generally or strongly disagree.

This concern appears to rest upon the belief that this system could allow Clients to ‘pass the buck’ and may result in the Co-ordinator having control of elements which the Client or Contractor should be making first hand decisions or have influence over. Yet there were also calls for the Co-ordinator to have more teeth than the Planning Supervisor and an endorsement through the Regulations would certainly help achieve this.

It was also suggested that the Co-ordinator should be empowered in a way that would enable them to assist ‘unintelligent’ or ‘uninformed’ Clients and to subsequently form a single point of contact for the Project Team, thus generating quicker health and safety responses.

Question 8	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>22. Designers shall “ ... Avoid risk to any person” and “eliminate hazards ... so far as is reasonably practicable.” Are you happy with this?</b>	581	457	78	25	12

The majority of the delegates who attended the Roadshows were in favour of this principle.

It was felt that the strength of this requirement allows for ‘balanced consideration of what can be achieved’ to take place and would focus the Designers on their responsibilities.

However, concerns were raised as to the phrase ‘reasonably practical’, which is regarded as being too vague and lacking in sufficient definition or guidance. The main concern is that it could be perceived as a ‘get out’ or ‘escape route’ for those who did not adequately fulfill their duties and responsibilities.

Question 9	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>23. Do designers need to supply more information on buildability/maintainability/usability?</b>	736	326	60	18	13

A particularly clear response was evident from the almost unanimously positive agreement with this question.

The feedback from the industry delegates at the Ipswich Roadshow however gave a quite different response. They concluded that while there should be more discussion between the Designer and the Project Team in relation to design information the emphasis should be on increasing the quality not quantity of the information supplied.

It may be that these two polar views are actually aiming for the same result, the increased sharing of relevant and high quality design information, but from different standpoints. In many ways this reflects the comments of Question 2, ‘Will the proposals reduce bureaucracy’, where it was argued that not all bureaucratic systems are negative but that the relevance of the system requires improvement.

The responses to both these questions appears to rest in the belief that greater efforts have to focus on ensuring *more relevant* rather than larger quantities of information are available since the supply of the opposite would only result in higher levels of unnecessary bureaucracy.

The Ipswich Roadshow delegates were also strong in the belief that the Designer's requirement to supply more information on buildability/maintainability/usability should relate to site-specific matters, especially those of significant importance or of an unusual nature, and that this should be placed on the Drawing and Hazards List. They were also keen to emphasis that this requirement should in no way be interpreted to include the Designer telling the Contractor how to manage hazards.

Question 10	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>24. Do you support one single set of CDM/CHSW Regulations, as per the Consultation Document?</b>	740	345	26	0	0

The majority of those in the Construction Industry would appear to prefer a single set of CDM/CHSW Regulations.

A single set of regulations would provide one point of reference for the two closely related regulations and could thereby increase the ease by which they are located and reduce the time wasted referring to two separate documents. It was envisaged that such a process may even increase the awareness and ownership of construction health and safety issues by those involved with the CDM and CHSW Regulations.

However there are concerns that the prominence of CDM Regulations within the Construction Industry could lead to the CHSW Regulations being overshadowed and its importance diluted if a single set of regulations were introduced.

There is also a worry that the timescale required to incorporate both sets of regulations into one would result in delays to the issuing of the revised CDM Regulations.

Question 11	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>25. Do you support the grouping by duty-holder of the new regulations (as in the Consultation Document)?</b>	369	616	39	2	137

There is strong agreement that groupings by duty-holder should be supported in the new Regulations. It is interesting to note that this Question also has the highest number of no answers of all the questions on the feedback form. The reason for this however is unclear.

The arguments for groupings by duty-holder in the new Regulations are both logical and expected:

It would be easier to identify specific duties in relation to individual functions.

The Regulations would be consistent with other statutory legislation.

In much the same way the reasons for concern are also logical and expected. If grouping by duty-holders were to occur in the new Regulations it would mean that the duties would be read in isolation and this could have a highly detrimental if it discouraged a teamwork approach to Projects.

Question 12	Strongly agree	Generally agree	Generally disagree	Strongly disagree	No answer
<b>26. Do you agree that (apart from minor exceptions) civil liability for breaches of the regulations should be limited to the employer/employee relationship? (i.e. excludes self employed)</b>	118	398	353	191	93

There is an almost even split between those in Industry who agree and those who disagree with this question.

A slightly higher proportion of delegates were in disagreement with this statement and there was also a noticeable number of delegates who chose not to answer this question.

### **Conclusion**

The Roadshows aims were to promote the revised CDM/CHSW Regulations to the Construction Industry and engage them in the CDM/ CHSW Regulations Consultation process. To this end the Roadshows can be deemed successful as approximately 2,500 individuals signed up to attend the events and the level of discussion and debate in the Q&A sessions was varied and extensive in the majority of cases.

In reality it is highly unlikely that the final revisions and consolidation of the CDM Regulations 1994, the CHSW Regulations 1996 and the supporting guidance will satisfy everyone in the Construction Industry in every aspect.

However, if the key concerns of the Construction Industry can be addressed then a practical and useful tool for all those involved in the promotion of healthy and safe on construction sites, regulators and implementers alike, can be achieved through the revised Regulations.

The feedback from the CDM Roadshows has revealed that the main areas of concerns in the revised Regulations are:

### **Quality not quantity of information**

Regulations are in place to assist stakeholders. However, unless the language and associated processes are clear, user friendly and relevant they will prove to be counter-productive.

The regulations need to be designed with the aim of minimizing unnecessary bureaucratic processes while simultaneously maximizing the clarity of roles and responsibilities, encouraging teamwork and reducing the unnecessary repetition of tasks.

The Regulations need to be presented and regarded as a friend to those operating within the law, a guide for those unsure of the law and a deterrent to those willing to work outside of the law.

### **Competency**

While the Construction Industry strongly welcomes and supports the proposed Regulation requirement that all duty-holders are competent in their field they do however feel that the current proposals do not go far enough in specifying the levels of competency that they seek.

It is felt that the definitions of competency and how it can be ascertained are too vague and unclear at present. Reversing this situation would boost industry's confidence in dealing with health and safety issues and hopefully in turn raise health and safety levels.

### **Clarity of terms**

While industry recognizes that the scope of work conducted on each site can be immensely varied and thus terms such as 'reasonably practical' and 'competent' have to be generic there are strong calls for more specific definitions.

Indeed the ambiguity of some terms has been cited as a contributing factor towards the high level of bureaucracy currently associated with the CDM Regulations.

### **Teamwork**

To ensure that health and safety standards on construction sites are as high as they can be it is vital that there is teamwork between all stakeholders at all stages; from the Health and Safety Executive engaging with industry during the consultation period to the Regulations encouraging and facilitating team involvement within the Project Team.

Ultimately more teamwork should lead to more ownership by industry and hopefully to developing a positive cultural change towards health and safety in the industry.

The strong response from industry to be involved in this Consultation process is a positive and encouraging sign. Hopefully the results of this consultation process will be a dynamic set of CDM Regulations, a stronger Health and Safety Executive and industry relationship and higher health and safety levels on British sites.