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**HEALTH AND SAFETY EXECUTIVE
CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)**

CDM 2007 Evaluation Issues

A paper by the CONIAC Secretariat

**Cleared by Philip White, Chief Inspector of Construction,
on 9 March 2009**

Summary

For discussion and decision at CONIAC on 26 March 2009

This paper updates CONIAC on progress with the work to evaluate the Construction (Design and Management) Regulations 2007 (CDM 2007), and asks for agreement to establish a Working Group to support that work.

Issue

1. Evaluation of CDM 2007, and CONIAC involvement.

Timing

2. Routine

Recommendation

3. That CONIAC agrees to establish a task and finish Working Group to support the evaluation work.

Background

4. General background information on the origin and aims of CDM 2007 was given in paper **M3/2008/5**. For ease of reference, relevant extracts from that paper have been placed into the **Annex** to this paper.

5. In keeping with standard government practice, a formal evaluation of CDM 2007 is required, and a commitment to undertake this earlier than usual, i.e. after two to three years, was given during the Parliamentary debate that followed the Regulations' coming into force on 6 April 2007. The evaluation will be conducted in line with Better Regulation principles and will draw on

previously established baseline information and on newly-commissioned research. It will seek to reveal how successful CDM 2007 has been in achieving its objectives and to shed light on any lessons that can be learnt.

6. HSE has planned the evaluation to consist of a small scale pilot study (Phase 1) followed by the full scale main survey (Phase 2). Phase 1 will seek:

- To prepare evaluation methodologies with the aim of assessing
 - a) the effectiveness of CDM 2007, measured through the extent to which the Regulations' objectives have been met, and
 - b) the accuracy of the assumptions made in the Regulatory Impact Assessment.
- To pilot these methodologies on a subset of the intended population sample to assess the feasibility of each one.
- To present the available options for a full evaluation

7. Frontline Consultants have been engaged to carry out Phase 1 and commenced work at the beginning of February 2009, with the following outline timescale:

- Design of pilot study and some preliminary data gathering – early February to end of March.
- Delivery of Interim Report – end March to early April.
- Carrying out of pilot study (including gathering of small sample survey data, analysis of data and development of options to inform full evaluation (Phase 2) – early April to late May.
- Delivery of Final Report (including recommendations for methodology to be employed in Phase 2) – late May 2009.

8. Following consideration of the recommendations in the Phase 1 Final Report, HSE will seek tenders for the Phase 2 work with a view to having it completed during 2010/11.

9. As part of the design work mentioned above, Frontline have asked us to provide them with details of around five organisations who are knowledgeable about the implementation of CDM 2007, and may be willing to assist in initial development of the pilot study question-set. To this end, we have provided them with contact details for the Construction Industry Council (CIC), Construction Clients' Group (CCG), UK Contractors' Group (UKCG), Federation of Master Builders (FMB), UCATT and UNITE.

Argument

10. The CDM 2007 Regulations and Approved Code of Practice were developed in close partnership with the construction industry, primarily via the work of the former CONIAC CDM Review Working Group. This forum enabled open and lively discussion of the practical and legal issues involved in developing a regulatory package which met the necessary requirements and

objectives. Consequently, the industry has broadly supported CDM 2007 since its introduction on 6 April 2007, and largely continues to promote its key underlying principles.

11. HSE considers, therefore, that the CDM 2007 evaluation project will benefit from similar CONIAC scrutiny and input. It believes that this can best be achieved if CONIAC establishes a task and finish Working Group with a suitably representative and expert membership to provide advice, information, and practical support as the work progresses.

Action

12. If CONIAC agrees to establish such a Working Group to support the evaluation work, HSE will ask Members to submit nominations for persons to serve on the Group.

Contact

Michael J Ryan, CONIAC Secretariat, 1st Floor, Mercantile Chambers, 53 Bothwell Street, Glasgow, G2 6TS; Tel: 0141 275 3107; e-mail: Michael.ryan@hse.gsi.gov.uk

Extracts from paper M3/2008/5 by way of background

General background

Early feedback on CDM 94 suggested that it was failing to promote effective health and safety but was prompting wasteful bureaucracy and related burdens on business. Industry-wide consultation in 2002 disclosed support for the principles of CDM 94 but dissatisfaction with their implementation in the Regulations. Among the criticisms offered were that the Regulations were inflexible and difficult to understand, that the duties of clients should be more proportionate to their level of influence, and that the Planning Supervisor role was ineffective in many ways.

Subsequently, the [former] Health and Safety Commission approved a project to revise the Regulations, and laid down the following objectives for it:

- (a) Simplifying the Regulations to improve clarity – so making it easier for duty holders to know what is expected of them.
- (b) Maximising their flexibility – to fit with the vast range of contractual arrangements in the industry.
- (c) Making their focus planning and management, rather than the plan and other paperwork – to emphasise active management and minimise bureaucracy.
- (d) Strengthening the requirements regarding co-ordination and co-operation, particularly between designers and contractors – to encourage more integration.
- (e) Simplifying the assessment of competence (both for organisations and individuals) to help raise standards and reduce bureaucracy.

HSE, in collaboration with the industry (most particularly with the assistance of a CONIAC Working Group), embarked on a revision of the Regulations, designed to address the identified deficiencies in a manner consistent with Better Regulation principles. CDM 2007 came into force on 6 April 2007. During a Parliamentary debate on the Regulations following their introduction, Ministers agreed that HSE should carry out an early review of CDM 2007, i.e. within 2 to 3 years.

Summary of main changes introduced by CDM 2007

- CDM 94 and the Construction (Health, Safety and Welfare) Regulations 1996 (CHSW 96) consolidated into a single set of Regulations.

- The Regulations are grouped by duty holder, so it is easier for each to see what their duties are.
- Projects for domestic clients no longer need to be notified.
- The Regulations apply to all sites, but there are additional duties for sites where construction work lasts more than 30 days or takes more than 500 person days.
- Provision for a 'client's agent' is removed.
- The Planning Supervisor role ceases to exist. A CDM co-ordinator is introduced to advise and assist the client; to co-ordinate the planning and design phase and to prepare the health and safety file.
- There is a simple trigger for the appointments of the CDM co-ordinator and the Principal Contractor, and preparation of a written health and safety plan. This trigger is the same as the notification threshold, i.e., 30 days or 500 person days of construction work.
- Demolition is treated in the same way as any other construction activity, except a written plan is required for all demolition work.
- Clearer guidance is given in the ACoP on competence assessment, which it is hoped will save time and reduce bureaucracy.
- There is an enhanced client duty, (making explicit duties which already existed under the Health and Safety at Work etc. Act 1974 and the Management of Health and Safety at Work Regulations 1999, to ensure that the arrangements other duty holders have made are sufficient to ensure the health and safety of those working on the project.
- A new duty is placed on designers to ensure that any workplace which they design complies with relevant sections of the Workplace (Health, Safety and Welfare) Regulations 1992.
- Clients and contractors (including the Principal Contractor) must tell those they appoint how much time they have allowed, before work starts on site, for appointees to plan and prepare for the construction work.