Revision of the Construction (Design and Management) Regulations (CDM) 1994, Construction (Health, Safety and Welfare) (CHSW) Regulations 1996, Approved Code of Practice (ACoP) and Guidance

This consultative document is issued by the Health and Safety Commission in compliance with its duty to consult, under sections 16(2) and 50(3) of the Health and Safety at Work etc. Act 1974, bodies which appear to it to be appropriate before submitting proposals for the making of Regulations and the issue of Approved Codes of Practice.

Comments can be supplied online at:
http://consultations.hse.gov.uk/consult.ti/conregs/consultationHome

or sent to:
Paul Cunningham
Health and Safety Executive
Construction Policy
5SW, Rose Court
2 Southwark Bridge
London SE1 9HS
Tel: 020 7556 2175 Fax: 020 7556 2209
e-mail: cdmreview@hse.gsi.gov.uk

to reach him no later than 29 July 2005

The Commission tries to make its consultation procedure as thorough and open as possible. Responses to this consultative document will be lodged with the Health and Safety Executive’s Information Centres after the close of the consultation period where they can be inspected by members of the public or be copied to them on payment of the appropriate fee to cover costs.

Responses to this consultative document are invited on the basis that anyone submitting them agrees to their response being dealt with in this way. Responses, or part of them, will be withheld from the Information Centres only at the express request of the person making them. In such cases, a note will be put in the index to the responses identifying those who have commented and have asked that their views, or part of them, be treated as confidential.

Many business e-mail systems now automatically append a paragraph stating the message is confidential. If you are responding to this CD by e-mail and you are content for your responses to be made publicly available, please make clear in the body of your response that you do not wish any standard confidentiality statement to apply.

Further single copies of this document may be obtained from HSE Books – see back cover

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SUMMARY


2. The proposals build on the general principles of CDM and experience of its implementation and take account of the responses to the 2002 Discussion Document (DD) Revitalising health and safety in construction and other feedback from industry. They reflect the HSC and Construction Industry Advisory Committee (CONIAC) commitment that the revision exercise should improve the management of risk, and therefore ensure responsibility is placed with those in the best position to influence or manage it.

3. They aim to simplify and clarify what duty holders need to do, so that they can easily identify and understand their own role (and those of other members of the project team). To make it easier to understand the various responsibilities, we have restructured the proposed Regulations, to group their requirements by duty holder. We have also tried to make application of the Regulations and guidance simpler and more suitable, and the proposals more compatible with less-traditional procurement methodology.

4. As part of this process, and reflecting responses to the DD, what remains of the CHSW Regulations, after the amendments due to the new Work at Height Regulations, now forms the basis of Schedules 2 and 3 of the proposed single set of revised CDM Regulations.

5. We have used the experience and knowledge gained, in the 10 years since the CDM Regulations were first in place, to make changes we believe will be effective in raising health and safety standards in the industry. We think they allocate responsibilities in a practical and proportionate way. If you believe they do not, or there are problems of practical application that have not been identified, we would like to hear from you in response to this consultation exercise.

6. The proposals recognise the influence of clients on the whole process, and seek to encourage clients and all members of their project teams to communicate and work effectively together, from the start to the end of the project, to ensure health and safety issues are identified and addressed. To ensure services and adequate welfare facilities are provided from the start of construction work, and to help provide a level playing field for prospective Principal Contractors (PC) to price for such facilities, clients are required to state at the tender stage how much notice of mobilisation will be given.

7. To assist clients in discharging their duties, we have replaced the Planning Supervisor (PS) with a new role “the co-ordinator” to provide advice and support. The co-ordinator’s role has evolved from that of the PS, but is re-enforced (in tandem with the client’s duties) to create an empowered and key advisor to the client, and pivotal figure in ensuring an effective and cohesive project team. We have not lost sight of the fact that good health and safety has commercial benefits too: better quality, and more chance of the project being completed on

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c The TMCS Directive is currently implemented in Great Britain mainly through the CDM and CHSW Regulations. The full text of Directive 57 of 1992 can be found at http://europa.eu.int/
time and coming in on budget because the site will be better managed. We see the co-ordinator as being instrumental in ensuring this.

8. Designers have considerable potential to reduce the risks associated with construction work, as well as those associated with building use, maintenance, cleaning, and eventual demolition. The proposals reflect this. The principles are largely unchanged, but revised requirements clarify the factors they must take into account when exercising their professional judgement. The aim is to encourage designers to focus on what they can do, in the design, to eliminate hazards, where possible, and reduce the risks resulting from any that remain.

9. There are no substantial changes regarding the PC or contractors, except to make explicit, in the proposed Regulations, the PC’s key role in managing the construction phase; and the contractor’s duty to plan, manage and monitor their own work to ensure that it is carried out in accordance with the plan and, so far as is reasonably practicable, safely and without risk to health. The PC’s key role in promoting worker consultation and involvement is also emphasised.

10. Construction, design and management are inseparable links in the safe, healthy and effective construction project management chain. For this reason, CONIAC felt it was important to retain the current title of the CDM Regulations. The proposals focus on achieving effective planning and management, with the minimum of bureaucracy – concentrating on the provision of necessary and relevant information, rather than on generic documents adding to bureaucracy without adding value.

11. The proposals also recognise that competence is crucial, and that the person best placed to do something may not necessarily be the best suited. The Regulations therefore provide for necessary functions to be undertaken only by those who are competent; but also offer support – primarily in the role of the co-ordinator – for clients who may be unfamiliar with construction work.

12. The HSC understands that, although there is a clear desire for better Regulations, industry culture is the biggest hindrance to progress, and we cannot directly change this by the law. This consultation does offer a good opportunity, however, to promote risk management and to influence attitudes and behaviour.

Your role

13. We need to know your views on whether we have satisfactorily addressed the issues in the draft Regulations, and supporting guidance material. We would also welcome your suggestions on how we can maximise the positive impact of the proposed new Regulations, if they receive your support.

14. This CD includes a number of key questions on which we are seeking a response, and these are set out in the questionnaire on pages 165-173. They cover issues such as whether you prefer a single set of Regulations, or separate packages covering the management and practical requirements; and whether grouping the Regulations’ requirements by duty-holder makes it easier to understand the various responsibilities.

15. Responding to this consultation gives you a real opportunity to influence the way in which these proposals are taken forward. We are particularly keen to know the reasons for your views, so would appreciate you taking the time to provide us with this extra information in the text boxes provided in the questionnaire. The questionnaire is not intended to restrict your response. Page 163 explains how to respond on any other aspects of the draft Regulations or guidance. The deadline for responses is 29 July 2005.
INTRODUCTION

16. HSC believes that consulting with stakeholders ensures an open and transparent approach to decision-making, which is essential if policies and decisions are to have widespread ownership and reflect the needs and aspirations of the people they will affect. The Commission then decides on the best way forward, based on an interpretation and analysis of the results of the exercise.


18. The HSC is grateful to CONIAC, its CDM Review Working Group and others who have provided ideas, material and comments on early drafts. Their help in developing these proposals has been incalculable.

19. We need your views on these proposals by 29 July 2005. A form with particular questions is provided at pages 165-173, but we would also welcome your comments on any other aspect of the proposals or draft documents. You can help make our analysis easier by filling in the form on–line or downloading a copy and e-mailing your response to us. Providing an explanation of the reasons behind your answers will also help us understand why you hold the views you do. For full details on how to respond and the sort of information we need, see page 163.

Implementation timetable

20. How we proceed, and the timetable we work to, will be affected by the results of this consultation. If responses indicate general support for our proposals, we are aiming to have the new Regulations and guidance in place by October 2006. This allows for HSE analysis of responses, further HSC consideration of HSE’s report on the consultation, and the usual Parliamentary process.

OUTLINE AND EXPLANATION OF HSC’S PROPOSALS

Background

21. The introduction of CDM 1994 marked an innovative approach to construction legislation, and an early review of its impact therefore followed. This concluded that, although the philosophy was widely understood and accepted, there was a need to clarify the CDM requirements for duty holders. This led to the ACoP being revised in 2001, which was well received, and the guidance we are now proposing builds on that and develops it further to reflect the clearer signposting of duties in the Regulations.

22. In Autumn 2002, HSE consulted the industry on a wide range of issues in Revitalising health and safety in construction. The responses received indicated that there was general agreement that the principles of CDM were correct, but that a number of issues still needed to be addressed to deliver the benefits that had been expected when CDM first came into force. Responses (relevant to the construction Regulations) suggested a need to:

- improve competence at all levels – professionals, managers and site workers.

\[d\] A detailed summary of responses can be found at www.hse.gov.uk/consult/disdocs/dde20summary.pdf
(Respondents saw this as the single biggest factor in improving standards.) This included raising the profile and value of site induction;

- recognise the influence that clients wield, either beneficially or detrimentally. Clients’ attitudes and approach (‘cheapest/quickest’) was seen as the second biggest hindrance to progress – industry culture being the first. Linked to this was the importance of allowing enough time to plan and deliver projects effectively. Most respondents wanted clients’ legal duties to be increased, though some regarded this as unreasonable;

- re-evaluate the PS role because many saw it as largely ineffective. The vast majority of respondents wanted changes, albeit incompatible ones, to address issues such as remoteness from “front-line” activity, lack of client and designer support, independence and late appointment. Although a substantial majority favoured changing and developing the role, there were various views as to what the changes should be;

- produce more specific legislation so that everyone knows exactly what they need to do – although many wanted more freedom to act, based on their assessment of the risks;

- improve consultation with the workforce (but attitudes were quite polarised).

23. Many respondents saw poor project management and fragmentation as major obstacles to progress in health and safety. Fragmentation and the associated adversarial attitudes encouraged people to pass risk down the supply chain – often to those that were least able to actually reduce or manage the risk.

24. There was strong support for integrated teams, which respondents said produced benefits in health and safety as well as other areas. However, few respondents thought that integrated teams should be required in health and safety law. Gateways\(^\text{5}\) to ensure that health and safety issues were properly addressed were seen as a way of improving project management, though, again, there was a preference that they should not be prescribed in law.

25. While there was a clear desire for better Regulations, industry culture (particularly its inertia and complacency) was seen as the biggest hindrance to progress. There was recognition that law cannot itself directly change the industry’s culture, but the actual process of changing the law does provide opportunities to positively influence the culture. **Although this CD focuses on proposed legal changes, we must not lose sight of the need to promote changes in attitudes and behaviour within the industry. Without such changes, no set of regulations can achieve the step-change in health and safety that we want to see.**

26. We would welcome your views on whether such issues are satisfactorily addressed in the draft guidance on good practice. We would also welcome your suggestions on how we can maximise the positive impact of the proposed new Regulations, if they receive your support. For example, it is very important that we do not appear to encourage unnecessary bureaucracy. Indeed, we want to encourage everyone to challenge existing procedures that do not contribute to better risk management and better value.

**Objectives of the revision**

27. Taking account of the responses to *Revitalising health and safety in construction* and other feedback from industry, the HSC and its Construction Industry Advisory Committee

\(^{5}\) a checkpoint, to ensure a key activity has taken place before moving to the next stage of the project
(CONIAC) concluded that the key objectives for the revision of CDM should be to **improve the management of risk** by:

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

28. We would appreciate your views as to whether our proposals deliver these objectives. We recognise there is some tension between the first two objectives, because it is impossible to provide total clarity and flexibility at the same time. Given the vast range of businesses and types of projects in the construction industry, it is difficult to provide the prescription that one part of the industry seeks, without restricting the flexibility that another part wants. We have tried to achieve a balance between these conflicting aims, enhanced by the supporting guidance material.

29. We are also conscious of the need to address the position of both small and occasional clients and small contractors, as these groups may find it harder to get to grips with the revised Regulations, and we would welcome your opinion on whether we have succeeded in doing so.

### Q1. Responses to the DD (published 2002) indicated a clear view that the Regulations needed to be revised. Having seen the proposals do you:

- a) support the changes proposed (in general terms);
- b) feel you would rather stick with the current Regulations and ACoP; or
- c) neither of the above?

### Q2. Do you think the proposals will:

- a) help to reduce bureaucracy;
- b) encourage team-working; and
- c) support effective project management?

How do you think this could be improved?
Key changes

30. This section sets out the background and rationale for some of the main proposals in the draft Regulations and seeks your views.

Application and notification

31. The distinction in the current Regulations between their application and notification of projects is confusing. We therefore propose that, for the purposes of the Regulations, there should only be only two types of construction projects: notifiable and non-notifiable. All of the proposed requirements would apply to notifiable projects, but the requirements relating to appointments, plans and other paperwork would not apply to non-notifiable projects. The practical effect of this would be that all projects would require:

- non-domestic clients to check the competence of all their appointees; ensure there are suitable management arrangements for the project; and allow sufficient time and resources for all stages;
- designers to eliminate hazards and reduce risks due to design; and provide information about remaining risks;
- contractors to plan, manage and monitor their own work and that of workers; check the competence of all their appointees and workers; train their own employees; provide information to their workers; comply with the requirements for health and safety on site detailed in Schedule 3 and other regulations; and ensure there are adequate welfare facilities for their workers;
- everyone to assure their own competence; co-operate with others involved in the project; report obvious risks; take account of the general principles of prevention in planning or carrying out construction work; and comply with the requirements in Schedule 3 and other regulations for any work under their control.

32. As well as the above requirements, a notifiable project would require:

- non-domestic clients to appoint a co-ordinator and ensure that job is performed properly; appoint a Principal Contractor (PC); provide information; check (before construction work starts) that there is a construction phase plan and suitable welfare facilities; and retain and provide access to the health and safety file;
- co-ordinators to advise and assist clients with their duties; notify HSE; co-ordinate design work; manage communication between client, designers and contractors; liaise with the PC on ongoing design issues; prepare and update the health and safety file;
- designers to check, before they start work, that clients are aware of their duties and a co-ordinator has been appointed; check HSE has been notified; and provide any information needed for the health and safety file;
- PCs to plan, manage and monitor the construction phase in liaison with contractors; prepare, develop and implement a written plan (the initial plan to be completed before the construction phase begins); make sure suitable welfare facilities are provided from the start and maintained throughout the construction phase; check the competence of all their appointees; provide site inductions; consult with the workers;

A project is notifiable if the construction phase is likely to involve more than (a) 30 days, or (b) 500 person days, of construction work.
liaise with the co-ordinator on ongoing design issues; and secure the site;

- contractors to confirm clients are aware of their duties and a co-ordinator has been appointed; co-operate with the PC in planning and managing work; check HSE has been notified; and provide any information needed for the health and safety file.

33. To ensure the revised Regulations are proportionate to risk and the needs of small businesses, and to minimise bureaucracy, we also propose to drop the current requirement for appointment of a Planning Supervisor (PS) and PC and written plans for projects involving 5 or more workers. This does not mean any lessening in the health and safety standards required by the Regulations, as we have strengthened or introduced other requirements. These place the emphasis on risk management, while avoiding disproportionate bureaucracy for smaller projects.

34. We would welcome views on this approach and also on whether the split between the requirements that apply to all projects and notifiable projects is correct. (The demarcation is set out in the introduction to the attached draft guidance.)

**Competence**

35. The current CDM Regulations require clients and others to appoint competent PSs, designers, PCs and contractors. While this principal is generally accepted, the common view is that the arrangements adopted by most clients (and other CDM duty holders) do not ensure competence. Instead, they have tended to become bureaucratic form filling exercises.

36. We must address the need to ensure competence both of individuals working on a project, and of businesses engaged to carry out the work. In doing so, we have built on current requirements in CHSW, regulation 28 and CDM, regulations 8 and 9. We recognise that assessing competence is not always easy, particularly for less experienced clients. HSE has therefore commissioned research⁶ to establish current good practice in this area. Some tentative ideas are set out in the draft guidance, but this will be revised in the light of your comments and the outcome of the research project.

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<th>Q3. How can we (Industry and HSE) make it easier for people to assess appointees’ competence?</th>
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<td>37. How far should HSE promote, or allow people to rely on, industry standards and pre-qualification initiatives for assessing competence? We think that these are likely to be at least as effective, and much less bureaucratic, than some current approaches. However, it is always crucial for competence to be considered in relation to the actual work proposed. Industry standards may be adequate for 90% of projects, but some may require higher standards or degrees of assurance because of the risks involved.</td>
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<td>38. Similar considerations apply to the competence of individual designers, managers and other workers. Here, the tentative approach is to encourage, through the guidance, the use of CSCS (and similar) certification as a minimum standard. We would welcome feedback on this idea and suggestions for alternative approaches.</td>
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<td>39. There is also a proposed new duty on appointees to make sure that they are competent to do what they are appointed for. After all, they are usually in a better position to make that judgement than the person appointing them.</td>
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⁶ See www.hse.gov.uk/construction/cdmguides.htm for further information.
Co-operation
40. There are currently various duties on designers and contractors to co-operate with the PS, other designers or the PC. These have been drawn together into a single requirement for everyone involved in the project to co-operate with others to enable them to carry out their duties under the revised Regulations.

41. The draft Regulations also extend this duty to require co-operation between different projects on the same or adjoining sites. An example would be during the construction of an industrial estate, where different projects are dealing with roadways/construction of the shells and fitting them out. There needs to be co-operation to ensure safe access.

Worker engagement
42. Worker participation is widely recognised as a crucial element of effective health and safety management, and we recognise the role that unions and Safety Representatives play in improving worker health and safety consultation and standards on construction sites. However, we also know that, in practice, only a small proportion of construction work where CDM applies will be carried out on sites with appointed TU Safety Representatives. We therefore believe it would be desirable to place a duty on PCs to carry out meaningful worker consultation. Draft regulation 18 aims to improve worker engagement on sites where CDM applies, thereby promoting a positive safety culture in the industry.

43. Through this requirement we are hoping to achieve proper consultation with the workforce, including:
   • a management commitment to providing information to, and receiving information from, the workforce;
   • effective procedures put in place for consultation dialogue and/or discussion;
   • evidence that workers’ views are properly taken into account.

44. We want to ensure that workforce consultation is achieved in a planned and structured way – including the participation of workers’ representatives and committees in the consultation process, where appropriate. Procedures should, of course, be in proportion to the changing risks presented as a project develops, the numbers of workers involved, and take account of any cultural/language differences on site.

45. We see properly planned and managed worker participation as a valuable means of improving the risk assessment process, early identification of safety hazards, selection/development of safe systems of work, and standards of occupational health. As well as assisting the consultation process between the PC and the workforce, the requirement should also ensure the flow of necessary information between contractors’ workers, where the activities of one contractor may affect the health or safety of other contractors’ workers.

Client’s role
46. The role of clients is one of the most difficult areas to cover in law, because of the vast range of interest and expertise in construction, and clients have real questions as to why they should be involved. We are very conscious of the substantial influence and control that clients exert over construction projects in practice. For example they:
   • set the tone for projects
   • control contractual arrangements
   • make crucial decisions (eg budget, time, suitability of designs)
• select procurement method and construction team/supply chain
• may have essential information about site/building

47. It would not, however, be reasonable or sensible to force clients to become experts in construction health and safety or to take on the management of construction projects. (Indeed we believe that there must be one party, the PC, who has clear, uncompromised responsibility for the management of the construction work on larger projects.) We are therefore proposing a new duty on clients to ensure that suitable project management arrangements for health and safety are in place. (See regulation 7, which is a development of material in the existing ACoP.)

48. Clients are not expected to develop these arrangements themselves and few have the expertise to do so. They should be able to rely on the advice and support of their construction team and, in particular, the co-ordinator. What we expect is for them to exercise their influence and control responsibly and with due regard for those who will construct, maintain and demolish the structure.

Q4. Taking account of clients’ influential role, but also of their frequent lack of construction expertise, do you think the proposed new duties on clients (particularly to ensure that there are suitable management arrangements) are reasonable and appropriate?

If your answer is “No”, please explain what you think is needed instead.

49. We do not propose to retain the current provisions on agents; with the anomalous freedom this gives clients to absolve themselves of their legal obligations. The aim is to prevent anyone retaining control while avoiding accountability. However, where several clients have related projects it can be useful for them to be brought under common management. We therefore propose to allow several clients to agree among themselves that one should be treated as the sole client for the purposes of the Regulations – except for any ongoing involvement or information that they have.

50. In addition, we propose to omit the current provisions (regulation 5) regarding developers. We believe the general provisions are sufficient to cover this particular client group.

Q5. Do you think the draft Regulations make it clear that the intention of the proposed new duty on clients is for them to ensure that things are done – but not necessarily for them to do those things themselves?

If your answer is “No”, how do you think this could be made clearer?

Q6. Do you think the proposed duties on clients (supported by co-ordinators) to ensure there are arrangements for managing projects are likely to have a beneficial effect on safe planning and arrangements for work?

Q7. Do you think the explicit duty on clients to allocate sufficient time and resources is helpful?

If your answer is “No”, please give your reasons.
Planning Supervisors

51. There is widespread agreement that the role, as currently developed, has not proved as effective as intended. However, views on this tend to be highly polarised. The main problems are that PSs:

- are not seen as a natural part of the construction team. To be effective they need to be better integrated with the rest of the design and construction team;
- are often appointed too late in the project so that they cannot do their job;
- frequently have to operate at a disadvantage, due to insufficient allocation of resources by the client, in terms both of money and time;
- have no authority to carry out their duties unless the client effectively empowers them and others co-operate; and
- have, fairly or not, become the scapegoat for the bureaucracy linked to CDM.

52. To address these points we propose to:

- create a new function – the co-ordinator\(^h\) – to advise and assist the client;
- place responsibility on clients to ensure that the co-ordinator’s duties are carried out – only they have the information and authority to empower the co-ordinator;
- explicitly require the co-ordinator to be appointed before design work starts, with corresponding duties on designers and contractors not to begin work unless a co-ordinator has been appointed; and
- require the client to ensure that the arrangements for managing projects include the allocation of adequate resources (including time).

53. Although the role of co-ordinator has been developed from that of the PS, we see the two roles as being substantially different in their duties and structure – with the co-ordinator’s function being to assist the client, designer and contractor in achieving better health and safety on site. The client will instruct the co-ordinator and be required to ensure they carry out their duties.

54. In developing these proposals we have focused on the tasks that need to be carried out, rather than the person performing them. These tasks are set out in draft regulation 13. The key task is a duty to advise and assist the client in undertaking the measures to comply with these Regulations. The intention of this requirement is to position the co-ordinator as the client’s friend. Responsibility for ensuring the co-ordinator carries out the necessary functions rests with the client.

Q8. Will the proposed role of the co-ordinator provide the support needed by clients, particularly inexperienced ones?

If your answer is “No”, please explain what you think could be done to achieve this.

\(^h\) The name comes from the term pre-construction health and safety co-ordinator, which is used in the Temporary or Mobile Construction Sites Directive (TMCS). This may be changed in the event of a better suggestion. We have deliberately chosen not to include health and safety in the name as some or all of the tasks may be integrated into the project management arrangements.

The TMCS is currently implemented in Great Britain mainly through the CDM and CHSW Regulations. The full text of Directive 57 of 1992 can be found at http://europa.eu.int/
Q9. Do the proposed changes address the issues of late appointment and lack of influence currently faced by Planning Supervisors?
If your answer is “No”, please provide any suggestions you have for an alternative approach.

55. The co-ordinator could be an individual or a company, as with the existing PS and PC, and the tasks could be allocated within other roles.

Designers
56. We fully recognise that, as well as health and safety considerations, designers need to take into account issues such as aesthetics, buildability, and cost. The challenge is to ensure that health and safety considerations are not outweighed by aesthetic and commercial priorities and, conversely, that health and safety does not inhibit aesthetics. However, it is a truth, almost universally acknowledged, that designers have considerable potential to eliminate hazards and reduce risks associated with construction work, as well as those associated with building use, maintenance, cleaning, and eventual demolition.

57. As part of balancing their design priorities, designers must take positive steps to use that potential and pay sufficient regard to health and safety in their designs to ensure that in the construction, use, maintenance and demolition of the resulting structures, hazards are removed where possible and any remaining risks reduced. Although this is already stated in the draft guidance, we propose to explicitly acknowledge the need for such balanced decisions in the Regulations. We want to be clear that we expect designers to exercise their professional judgement in a responsible way, not to unreasonably restrict their creativity.

58. We also recognise that the wording of the current CDM regulation 13 is not well understood. It does not communicate simply the factors that designers must take into account when exercising their judgement, and we have improved on this in the revised Regulations. One of the primary aims of the revised Regulations is to clarify the designers’ duties, so that the wording is clearer and less subjective. We also want designers to focus on how their decisions are likely to affect those constructing, maintaining, using or demolishing the structures that they have designed and what they can do, in the design, to remove the hazards, e.g. by not specifying hazardous materials and avoiding the need for processes that create hazardous fumes, vapours, dust, noise or vibration, and reduce the resulting risks where the hazard cannot be removed. The current ACoP and guidance already sets out most of this and there is no plan to change these standards.

Q10. Do you think the proposed designers’ duties are appropriate, reasonable and proportionate?
If your answer is “No”, please explain what you think is needed.

Q11. Do you think the proposed duties on designers, when read with the supporting guidance, are clearer and easier to understand?
If your answer is “No”, please explain what you think is needed.

59. The draft regulation 14 is intended to require designers to eliminate hazards where they can, and then reduce those risks which remain. It does not ask designers to minimise all risks, as we do not expect structures to be restricted to a height of 1 metre! There are also often too many variables and no obvious safest design. Practical guidance on these
judgements is provided and more has been published or is under development in collaboration with some of the professional institutions.

60. The duty regarding maintenance is currently limited to structural matters, but it is important that designers also consider safety during routine maintenance that is affected by their designs – e.g. how are high-level lights and ventilation systems to be maintained?

61. Currently, designers have no duty under CDM to ensure that their designs are safe to use. However, occupiers of workplaces have to ensure that the finished structure complies with other health and safety law, particularly the Workplace Regulations. To ensure that these issues are addressed at the design stage we propose to extend designers’ duties for fixed workplaces (e.g. offices, shops, schools, hospitals and factories) to cover safe use. Competent designers should be doing this already – so this is likely to require minimal additional work in practice.

Q12. Do you agree with the explicit duty on designers to consider the health and safety of users of offices, shops, factories and other fixed workplaces that they design?

If your answer is “No”, please explain why.

62. At present, there is a tendency for designers to provide generic risk information, (i.e. sometimes merely statements of the obvious), rather than the project specific information that other designers and contractors are likely to need. We would appreciate views as to whether the current proposals clearly scope the types of information that designers should provide.

Q13. There is a proposed duty on designers to provide the information needed by contractors and others to comply with their duties under these Regulations. Does this describe the information needed and discourage unhelpful generic risk information?

If you think not, we would welcome your suggestions for improvement.

Q14. Do you think buildability/maintainability/usability reviews provide a practical way of reviewing designs to ensure they satisfy the requirements of the proposed Regulations?

Principal Contractors

63. The role of Principal Contractor (PC), introduced when CDM came into force, was built on the longstanding role of main or managing contractor and did not, therefore, require any substantial changes in industry practice. Because of this, as a role, it has worked fairly well since CDM came into force, and we have not identified any need to change it significantly.

64. The only substantial proposal is to make explicit, in the Regulations, the PC’s key role in managing the construction phase, to ensure that it is carried out, so far as is reasonably practicable, safely and without risk to health. This does not mean that the PC has to manage the work of contractors in detail – that is the contractors’ own responsibility. They do have to make sure that they themselves are competent to address the health and safety issues likely to be involved in the management of the construction phase; satisfy themselves that the designers and contractors that they engage are competent and adequately resourced; and ensure that the construction phase is properly planned, managed and monitored, with adequately resourced, competent site management appropriate to the risk and activity.

65. We believe that single point overall responsibility for the management of health and safety on the construction site is crucial. We therefore propose to explicitly say that there can only be one PC for a project. In addition, the duties and guidance on the client’s role have been drafted to encourage their participation, but to discourage interference in site management.

66. We do not feel it is necessary, legally or otherwise, to specify in the Regulations that the PC must be a contractor. In over 90% of projects, contractors discharge the role of PC and those with contractor’s experience and expertise are most likely to have the competence and resources to manage the work. We believe that few clients have the competence or resources to manage significant construction work and do not want to encourage them to do so, although there is nothing to prevent this if they are competent – which is most likely in simple, low-risk projects.

Contractors

67. The only substantive change proposed regarding contractors, is to make explicit their duty to plan, manage and monitor their own work. The intention is that the proposed management duties on PCs and contractors should complement one another, with the contractor’s duty focusing on their own work and the PC’s on the co-ordination of the work of the various contractors.

68. It may be useful to provide brief guidance about the level of competence that contractors need for high-risk work like deep excavations, explosives, structural alterations and demolition. We would welcome views and suggestions on this.

Mobilisation periods

69. One of the biggest complaints in the responses to the DD was that adequate time is often not allowed for contractors to plan and prepare for construction. We, therefore, want to make sure that prospective PCs, and all other contractors involved in a project (whether directly engaged by the client, or through the PC) have sufficient time to plan and make proper preparations for the work on site. A key issue is the period between being told to start and actually starting work. To address this issue in the Regulations, we propose to require:

- clients to allow sufficient resources – this explicitly includes time;
- the co-ordinator to tell prospective PCs and contractors that are appointed by the client (and similarly for the PC to tell other prospective contractors) the minimum notice which they will be allowed between appointment and commencement of work to plan and prepare for construction work; and
- the client and the PC to ensure that adequate welfare facilities are in place at the start of the construction phase of notifiable projects – an additional means of ensuring that services are in place at the start and reasonable time is allowed.

70. Some sections of the industry suggested that we specified a minimum period in the Regulations which must be allowed between notice of mobilisation and the start of construction work. Although we are sympathetic to the idea, we do not believe it is feasible to prescribe this in law, because of the variety in the nature and scale of construction projects. This has to be determined for each project, taking into account the principles of good management, communication and co-operation enshrined in the Regulations.

Q15. Do you think the proposed new duty to spell out the minimum time between mobilisation and actually starting work will help to ensure sufficient time is available to prepare properly for construction?

If your answer is “No”, please explain how else you think this could be achieved.
**Pre–tender / Pre–construction plan**

71. We want to encourage the communication of relevant information, rather than a focus on particular documents. As part of this, we propose to replace the current pre-tender or pre-construction plan with a requirement to provide information to:

- focus attention on communication of the information that designers and contractors need to plan and do their work – not a particular document or plan setting out what is to be done; and

- make it clear that this is not about producing one document for everyone, at one particular stage in the project, but providing the right information, to the right people at the right time, throughout the project.

72. For convenience this has been called the information pack, but it is really about the flow of information around the project team during the early stages of a project. Although all members of the project team will play a part in ensuring the right information gets to the right people at the right time, we see this as a particularly important function of the co-ordinator.

**Health and safety file**

73. Under the current requirements a separate health and safety file is required for each project. We believe that it would be more useful to have one file for each site, structure or, occasionally, group of structures – e.g. bridges along a road. The file can then be developed over time as information is added from different projects.

74. There are also opportunities to link the health and safety file with other documents such as the Buildings Regulations Log Book. We want to ensure that such links can be made to make the file as useful and easy to maintain as possible. The potential practical value of the information contained in the file is also likely to increase as more clients make use of the Internet to share this information with designers and contractors. (For example, maintenance contractors could check what access equipment and parts they are likely to need to repair a fault before leaving for the site, saving them and their clients inconvenience, time and money.)

**Domestic Clients**

75. As with all projects, designers and contractors working for domestic clients will have to be competent and take reasonable steps to ensure that anyone they arrange for, or instruct, to manage design or construction work is also competent. They will also have to co-operate with others involved in the project, to safeguard the health and safety of everyone involved. When preparing or modifying a design, designers will have to avoid risks to the health and safety of anyone constructing, maintaining, using or demolishing the structures concerned, by removing the hazards (and reducing the risks arising from any that remain). Contractors will have to plan, manage and monitor their own work; and ensure that there are suitable welfare facilities.

76. In principle there is no reason why projects for domestic clients should be treated differently from commercial projects. In reality, however, imposing CDM duties is not straightforward and we do not believe that it is practical to place legal duties on domestic clients, particularly to appoint competent people. We therefore propose to continue the exemption. The net effect of our current proposals is that, as now, the Regulations would apply to all domestic projects, but there would be no need for a domestic client to appoint a principal contractor or co-ordinator, to notify HSE of the project, or to produce a health and safety plan or file. Our view is that this places responsibilities with those best placed to
manage the risk, and that there would be no added value from placing duties on domestic clients.

**Structure of the Regulations**

77. We have altered the structure of the proposed Regulations, so that the duties are now grouped by duty-holder. We believe this will make it easier for people to identify what they (and other members of the project team) need to do.

| Q16. Does grouping the Regulations’ requirements by duty-holder make it easier to understand the various responsibilities? |
| If you think not, please say how you would organise the Regulations. |

78. The proposed Work at Height Regulations will replace a significant part of the CHSW Regulations. In the discussion document *Revitalising health and safety in construction* we asked for your views as to what we should do as a result. We only had 54 responses on this point, but 80% expressed a clear preference for merging the CDM and CHSW Regulations. The draft Regulations have been prepared in line with those views.

79. Some respondents thought that merging the Regulations would compromise their clarity and make them unwieldy. Others believed that this would make life simpler and easier, drawing clients’ and designers’ attention to practical site safety issues, and might even address some of the misconceptions as to when the Regulations apply. It is these issues that we need your views on, and we hope that being able to compare the existing structure with that of the combined Regulations in the draft will put you in a better position to make an informed judgment on the point.

80. In drawing your conclusions on this point, please bear in mind that:

- merging allows some links to be made between the CDM roles and the practical issues – e.g. welfare provision; and
- legally it makes no difference whether the Regulations are merged or separate, except that merging them is a bit tidier because it avoids repetition of the definitions and some other legal technicalities.

81. If the preference were for separate Regulations we would not propose to consult again with two separate sets of Regulations, we would simply make the necessary legal changes to split the requirements. It is therefore important that, whatever your view on the best structure, you comment on any drafting issues regarding the Regulations as they are set out.

| Q17. Responses to the Discussion Document indicated a preference for a single set of construction regulations. Now that you can see what that looks like, would you prefer: |
| a) a single set (as proposed); or |
| b) separate packages covering the management and practical requirements? |
| Please give the reasons for your preference. |
Old CHSW Regulations requirements

82. The Construction (Health, Safety and Welfare) Regulations 1996 (CHSW) requirements, without the work at height provisions (regulations 6, 7 and 8), form the basis of Schedules 2 and 3 of the draft Regulations. The revision is mainly intended to simplify and clarify the wording of the Regulations, without making substantive changes to what is expected in practice. One substantive change, however, has been to broaden the duty regarding explosives to cover the important issues of security and safety of storage and transport, as well as safety in use.

83. A number of requirements in the TMCS Directive are of limited relevance to most construction work. This includes those regarding doors and gates, workers with disabilities, air-conditioning or mechanical ventilation, avoiding glare from sunlight, floors, cleaning walls and ceilings, safety glazing, safe opening and cleaning of windows, travelators and escalators and room dimensions.

84. We propose to amend the Workplace Regulations to implement these requirements, as a large part of the TMCS Directive was copied over from the Workplace Directive. This enables our draft Regulations to focus on the issues that contribute significantly to injuries during construction work.

85. However, some issues already covered by the Workplace Regulations are particularly important in construction. These include traffic management and lighting. Because these are so important we propose to duplicate aspects of the Workplace Regulations requirements in the new construction regulations, although that is not legally necessary.

86. We have also introduced a new requirement regarding energy distribution installations, to ensure a closer match with the TMCS Directive. Electricity and gas installations are a significant issue on construction sites.

Q18. Do the definitions of “construction work” and “structure” at regulation 2(1) satisfactorily cover everything that the Regulations should apply to and nothing else?

If not, we would welcome your suggestions for improvement.

Demolition

87. We are concerned to ensure that demolition and, indeed, other high-risk activities are carried out safely. This is why we raised the issue in the 2002 DD. The conclusion was that the focus should be on planning, management and competence. To deliver this and to simplify the current CHSW, regulation 10 requirement, the draft requires that “the demolition or dismantling of a structure, or part of a structure, shall be planned and carried out in such a manner as to prevent, so far as is practicable, danger”. It also introduces a new, explicit requirement to record the arrangements for carrying out demolition and dismantling in writing. (This is in addition to the general requirements that all work is properly planned, managed and carried out by competent contractors and workers.)

88. Some people would like us to make all demolition notifiable. But ownership of health and safety management rests with those commissioning and carrying out the work, not HSE. It might also lead to a false sense of security, since HSE would be unable to make use of the additional notifications without additional resources, or diverting them from other priorities.

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2 Schedule 3, paragraph 4(1)
89. Finally, it is difficult to define “demolition” in legal terms, for example to distinguish between knocking a hole in a wall to install a new window or door, and “proper” demolition such as pulling down the whole, or large part, of a building. (Projects involving substantial demolition would continue to be notifiable, as at present, under the proposals.)

90. The guidance also stresses the benefits of getting specialist advice and recording the arrangements for all complicated or high-risk work, to ensure that it is properly planned and that the plan is understood by those involved.

**Civil liability**

91. Regulation 21 of CDM currently excludes any civil liability for breach of the Regulations, except for a breach of the client’s duty to ensure that the construction phase of any project does not start unless a health and safety plan has been prepared (regulation 10); or of the PC’s duty to take reasonable steps to ensure there is no unauthorised access to the site (regulation 16(1)(c)). There is no equivalent exclusion in CHSW.

92. The Management Regulations (Management of Health and Safety at Work Regulations 1999) were amended in 2003 to provide employees with a right of action in civil proceedings, in relation to breach of duties by their employer. To maintain consistency we propose to carry forwards the current rights of civil action in CDM and CHSW and also to allow employees to take action in the civil courts for injuries resulting from a failure to comply with duties under these Regulations. We expect the impact of this approach on the overall level of civil litigation to be minimal.

93. This approach would not give any additional right of civil action to self-employed workers, for example if they were injured as the result of a failure by a client, designer or contractor to comply with their duties under the proposed Regulations. However, in most cases, injured workers already have a right to take action for negligence or breach of contract and those rights would not be affected.

94. We would welcome views on whether this approach to self-employed workers, who make up such a large part of the construction workforce, is right. The alternative is to completely remove the civil liability exclusion. CONIAC’s view is that this was likely to lead to an increase in litigation and defensive management, with the associated bureaucracy. On the other hand, it could also lead to more attention to improved risk management because of the fear of litigation.

Q19. Do you agree that (apart from the exceptions already in CDM 1994), civil liability for breaches of the Regulations should be limited to employer/employee relationships?

If you have answered “No”, please explain why you disagree.

**Enforcement**

95. The enforcement demarcation between HSE and Local Authorities (LAs) in respect of construction work is currently set out in the Health and Safety (Enforcing Authority) Regulations 1998, and in regulations 3(4) and 22 of CDM 94. Interpretation of these requirements is not straightforward, but the practical effect is that LAs are currently prevented from enforcing CDM. We propose to simplify this by omitting regulations 3 (4) and 22. HSE would then be the enforcing authority for:

- all notifiable construction work, except that undertaken by people in LA–enforced premises who normally work on the premises;

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1 See http://www.hse.gov.uk/consult/letters/manregs.htm for the latest developments.
• work done to the exterior of the premises; and
• work done in segregated areas.

96. This would not change the Enforcing Authority on any particular site, but would give LAs the opportunity to use CDM.

| Q20. Do you agree with our suggested changes to CDM enforcement demarcation? |
| If not, please explain why you disagree. |

97. The Office of the Deputy Prime Minister (ODPM) is currently finalising new fire safety legislation for England and Wales in the form of a Regulatory Reform Order (RRO). The Scottish Executive is developing similar legislation for Scotland. While HSE does not expect significant changes, they may result in some amendments to the requirements dealing with fire precautions in the final Regulations.

Transitional provisions
98. For practical reasons, to allow for projects partly overlapping the Regulations’ implementation date, the CDM 1994 Regulations included (at regulation 23 and Schedule 2), transitional provisions for projects which had started, but where the construction phase had not ended, when the Regulations came into force. Certain regulations (6, 7, 10, 11, 13 and 14 (a)) did not apply, came into force at a later date or had an otherwise modified effect.

99. For the same reasons of practicality, we are proposing to include similar transitional provisions in the revised Regulations (regulation 24). These will allow people to take advantage of the flexibility of the new Regulations, and essentially mean they will not need to revisit actions already taken or agreed under CDM 1994.

100. If you consider that additional transitional provisions are needed please tell us what they are and why they are needed.

Status of guidance
101. We know that people are sometimes confused by the difference between the legal status of Approved Code of Practice (ACoP) guidance material and that of ordinary guidance. The difference is explained below:

• ACoPs provide practical guidance on how to comply with legal duties, and have a special status (under section 16 of the Health and Safety at Work etc Act 1974) in that if a breach of those duties is alleged, and the guidance in the ACoP has not been followed, the burden of proving that the duty has been complied with by some other means falls on the duty holder. This reversal of the burden of proof in legal proceedings gives an ACoP more persuasive force than other guidance;

• ordinary guidance explains, in plain terms, what the law means or sets out best practice, but it has no formal legal status. Following the guidance is not compulsory, but if people do so, they will normally be doing enough for them to comply with the law.

102. There is currently ordinary guidance and ACoP material on the CDM Regulations (HSG 224), but only guidance material on the CHSW Regulations (particularly HSG 150). We do not believe that any ACoP material is needed for the existing CHSW requirements, but there have been strong calls for us to provide ACoP material on the CDM elements.
103. ACoP material is particularly useful where the law is very general, as it can give people confidence that they have complied, because of its special legal status, without forcing everyone to follow exactly the same approach. Members of CONIAC have advised HSE that they would prefer to see publication of a CDM ACOP. CONIAC’s view reflected concerns that construction SMEs and one-off clients greatly valued the certainty and authority that ACOP material provided when they were adopting management arrangements. There is a tendency, however, for people to focus on the ACOP material in the CDM guidance, and to overlook the ordinary guidance because they think its lack of specific legal status makes it less important. In fact, the “ordinary” guidance material is often equally as important, and we are keen to ensure that it is not disregarded.

104. We want to provide you with supporting guidance material in the format which is the clearest and easiest to understand, and is therefore the most likely to be used and followed. As yet, we are undecided as to whether ordinary guidance only, or a mixture of ACOP and guidance (as in HSG 224) would be the most suitable – and we want to hear your views. To get as informed a response as possible, we thought it would be helpful if, for the purposes of this CD, we presented the material as ordinary guidance only. This enables you to compare it with the existing publications, and decide which format you prefer. Having taken the above points into account, we would appreciate your views on whether you feel guidance only, or ACOP and guidance would be the most effective.

Q21. Having compared the current ACoP and guidance (HSG 224) with the revised draft guidance, which do you think communicates most clearly what duty-holders need to do to comply with the Regulations?

- a) ACOP and guidance (HSG 224 style)
- b) Guidance only style (as in the CD draft)

Please explain why you take this view.

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m As the introduction to HSG 224 says:

Approved Code of Practice

This Code has been approved by the Health and Safety Commission, with the consent of the Secretary of State. It gives practical advice on how to comply with the law. If you follow the advice you will be doing enough to comply with the law in respect of those specific matters on which the Code gives advice.

You may use alternative methods to those set out in the Code in order to comply with the law. However, the Code has a special legal status. If you are prosecuted for breach of health and safety law, and it is proved 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.

Guidance

This guidance is issued by the Health and Safety Commission. Following the 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. Health and Safety Inspectors seek to secure compliance with the law and may refer to this guidance as illustrating good practice.
Sectoral guidance
105. The HSC strategy\(^n\) says: *HSE will continue to produce authoritative independent written guidance whenever that is necessary and consistent with our priorities. But we accept that others may be better placed to produce good practice guidance for particular industries or topics and we will encourage that wherever we can.*

106. We are not planning to produce sector specific versions of the material contained in this CD. There could, however, be significant advantages if some sectors produced their own guidance. This could be much more specific than the generic material which has to cover all aspects of construction. For example, it could set out how particular issues like competence will be addressed in practice, rather than setting out the options as HSC/E material must.

107. Industry guidance can also be drafted widely, whereas HSC/E material inevitably focuses on health and safety issues – although we try to set this in the wider business context where appropriate.

108. Industry guidance for one-off and occasional clients, for example, has the major advantage that it can address the possible impact of construction work on their business, the procurement and finance options, the broad project management issues, as well as the legal issues like health and safety. Well drafted guidance like this is more likely to be read by the target audience because it can address the key points that they need to know about and include case studies which help them to understand the issues through relevant, real world examples.

109. HSE would be happy to work with sectors that wish to develop such guidance.

| Q22. Would there be a benefit from specific, integrated guidance drafted for your sector of the industry? (This would probably work best if it addressed health and safety alongside other relevant issues.) |
| If you are willing to develop such guidance in discussion with the key players in that sector, please let us know. |

Regulatory Impact Assessment
110. A draft Regulatory Impact Assessment (RIA) is provided at Annex C, for your comments. We would particularly like to know if the major costs and benefits have been correctly identified and if the amounts suggested are realistic. If you consider the figures suggested for any of the potential costs and benefits to be unrealistic, we would like to know what you think they should be and why – i.e. what basis or evidence do you have for that view?

| Q23. The draft RIA is based on our “best guess” estimates of the likely impact of the proposals. Do you believe them to be reasonable? |
| If you answer “No”, we would particularly welcome any hard evidence that you can provide to support a more realistic calculation of the proposed Regulations’ likely impact. |

\(^n\) http://www.hse.gov.uk/aboutus/hscstrategy2010.pdf
WHAT TO DO IF YOU ARE DISSATISFIED WITH THE WAY THIS
CONSULTATION HAS BEEN DONE

111. If you are not satisfied with the way in which this consultation exercise has been conducted you can complain by contacting:

Stephen Wright,
Head of Construction Policy,
Health and Safety Executive
5SW, Rose Court,
2, Southwark Bridge,
London
SE1 9HS

Telephone: 020 7556 2103
E-mail: stephen.pg.wright@hse.gsi.gov.uk

112. We aim to reply to all complaints within 10 working days. If you are not satisfied with the outcome of your complaint, you can raise the matter with the Director General of HSE – Timothy Walker, at the same address. You can also write to ask your MP to take up the case with us. Your MP may refer the matter to the Parliamentary Commissioner for Administration (the Ombudsman) who will investigate your complaint.
The Construction (Design and Management) Regulations 2006

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The Secretary of State, in exercise of the powers conferred upon him by sections 15(1), (2), (3)(a) and (c), (5)(a), (6)(a) and (b) and (9), 47(2) and (3) and 82(3)(a) of, and paragraphs 1(1) and (2), (6), (7), 8(1), 9, 10, 11, 12, 14, 15(1), 16, 18(a) and 21 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(\(^{a}\)) ("the 1974 Act") and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby make the following Regulations:

**PART 1**

**INTRODUCTION**

**Citation and commencement**

1. These Regulations may be cited as the Construction (Design and Management) Regulations 2006 and shall come into force on 2006.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

"business" means a trade, business or other undertaking (whether for profit or not);

"client" means a person who in the course or furtherance of a business—

(a) seeks or accepts the services of another which may be used in the carrying out of a project for him; or

(b) carries out a project himself;

"construction site" includes any place where construction work is being carried out or to which the workers have access, but does not include a workplace within it which is set aside for purposes other than construction work;

"construction phase" means the period of time starting when construction work in any project starts and ending when construction work in that project is completed;

"construction phase plan" means a document recording the health and safety arrangements, site rules and any special measures for the construction work;

"construction work" means the carrying out of any building, civil engineering or engineering construction work and includes —

(c) the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an

\(^{a}\) 1974 c.37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c.71).
abrasive at high pressure or the use of corrosive or toxic substances), de-commissioning, demolition or dismantling of a structure;

(d) the preparation for an intended structure, including site clearance, exploration and investigation (but not site survey) and the clearance or preparation of the site or structure for use or occupation at its conclusion;

(e) the assembly on site of prefabricated elements to form a structure or the disassembly of prefabricated elements which, immediately before such disassembly, formed a structure;

(f) the removal of a structure or part of a structure or of any product or waste resulting from demolition or dismantling of a structure or from disassembly of prefabricated elements which, immediately before such disassembly, formed a structure; and

(g) the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure,

but does not include the exploration for or extraction of mineral resources or activities preparatory thereto carried out at a place where such exploration or extraction is carried out;

“contractor” means any person (including a client or other person referred to in these Regulations) who, in the course or furtherance of a business, carries out or manages construction work;

“co-ordinator” means the person appointed as a co-ordinator under regulation 8(1);

“design” includes drawing, design details, specification and bill of quantities (including specification of articles or substances) relating to a structure, and calculations prepared for the purpose of a design;

“designer” means any person (including a client, contractor or other person referred to in these Regulations) who, in the course or furtherance of a business,—

(h) prepares or modifies a design; or

(i) arranges for or instructs any person under his control to do so,

relating to a structure or to a product or mechanical or electrical system intended for a particular structure; and a person is deemed to prepare a design where a design is prepared by a person under his control;

“excavation” includes any earthwork, trench, well, shaft, tunnel or underground working;

“the Executive” means the Health and Safety Executive;

“health and safety file”—

(a) means the record referred to in regulation 12(1);
(b) includes a health and safety file prepared under regulation 14(d) of the Construction (Design and Management) Regulations 1994(b);

“loading bay” means any facility for loading or unloading;
“principal contractor” means the person appointed as the principal contractor under regulation 8(2);
“project” means a project which includes or is intended to include construction work and includes all planning, design, management or other work involved in a project;
“site rules” means rules described in regulation 16(1)(c);
“structure” means—
(a) any building, steel or reinforced concrete structure, railway line or siding, tramway line, dock, harbour, inland navigation, tunnel, shaft, bridge, viaduct, waterworks, reservoir, pipe or pipe-line, cable, aqueduct, sewer, sewage works, gasholder, road, airfield, sea defence works, river works, drainage works, earthworks, lagoon, dam, wall, caisson, mast, tower, pylon, underground tank, earth retaining structure, or structure designed to preserve or alter any natural feature, fixed plant and any structure similar to the foregoing; or
(b) any formwork, falsework, scaffold or other structure designed or used to provide support or means of access during construction work;

“traffic route” means a route for pedestrian traffic or vehicles and includes any doorway, gateway, loading bay or ramp;
“vehicle” includes any mobile work equipment;
“work equipment” means any machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not);
“worker” means an employee or a self-employed person;
“writing” includes writing which is kept in electronic form and which can be printed.

(2) Any reference in these Regulations to a plan, rules, document, report or copy includes a plan, rules, document, report or copy which is kept in a form—
(a) in which it is capable of being reproduced as a printed copy when required;
(b) which is secure from loss or unauthorised interference.

(3) For the purposes of these Regulations, a project is notifiable if the construction phase is likely to involve more than—
(a) 30 days; or
(b) 500 person days,
of construction work for a client.

(*) S.I. 1994/3140, to which there are amendments not relevant to these Regulations.
Application

3.—(1) These Regulations shall apply—

(a) in Great Britain; and

(b) outside Great Britain as sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of article 8(1)(a) of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001(†).

(2) Regulations 8 to 13, 14(1), 16 to 18 and 19(1) and (5) shall apply only where a project is notifiable.

(3) Regulations 11, 16(1)(b), 19(4) and Schedule 2 shall apply only in relation to persons at work who are carrying out construction work.

(4) Regulation 20 and Schedule 3, save paragraph 10(3), shall apply only in relation to a construction site.

PART 2

DUTIES

Competence

4. (1) No person on whom these Regulations place a duty shall—

(a) appoint or engage a co-ordinator, designer, principal contractor or contractor unless he has taken reasonable steps to ensure that he is competent;

(b) accept such appointment or engagement unless he is competent;

(c) arrange for or instruct a worker to carry out or manage design or construction work unless he is—

(i) competent; or

(ii) under the supervision of a competent person.

Co-operation

5.—(1) Every person concerned in a project on whom a duty is placed by these Regulations, including paragraph (2), shall—

(†) S.I. 2001/2127.
(a) co-operate with any other person concerned in any project involving construction work at the same or an adjoining site so far as is necessary to enable the latter to perform any duty or function under these Regulations; and

(b) seek the co-operation of any other person concerned in any project involving construction work at the same or an adjoining site so far as is necessary to enable the former to perform any duty or function under these Regulations.

(2) Every person concerned in a project who is working under the control of another person shall report to him anything which he is aware is likely to endanger the health or safety of himself or others.

Election by clients

6. If, in relation to a project, one or more clients elect in writing to be treated for the purposes of these Regulations as the only clients, other clients who have agreed in writing to such election shall not be subject to any duty owed by a client under these Regulations after such election and consent, save the duties in regulations 5(1)(a), 10(1) so far as it relates to information in his possession, and 12(1).

The client’s arrangements for managing projects

7.—(1) The client shall take reasonable steps to ensure that arrangements are made, and maintained throughout the project, for managing it which are suitable to ensure—

(a) that—

(i) the construction work can be carried out; and

(ii) any structure to which the construction work relates, and which is designed for use as a place of work, can be used,

without risk to health or safety; and

(b) the welfare of the persons carrying out the construction work.

(2) The arrangements referred to in paragraph (1) shall include—

(a) the allocation of resources (including time) to—

(i) the design of a structure;

(ii) planning and preparation for construction work; and
(iii) the construction work itself,

which are, so far as the client in question can reasonably determine, adequate; and

(b) arrangements for—

(i) review and revision of the arrangements;

(ii) review of the suitability and compatibility of designs and for any modification;

(iii) ensuring that persons are appointed under regulation 8 or engaged as designers or contractors in a suitable sequence and in good time;

(iv) the planning for and monitoring of construction work;

(v) ensuring that the duties in regulations 5 and 16 are performed; and

(vi) communication.

**Appointments by the client**

8.—(1) The client shall—

(a) appoint a person (“the co-ordinator”), before design work, or planning or other preparation for construction work is begun, to perform the functions specified in regulation 13(1); and

(b) ensure so far as is reasonably practicable that the functions are performed.

(2) The client shall appoint one person (in these Regulations called “the principal contractor”) as soon as is practicable after the client knows enough about the project to be able to select a suitable person for such appointment, to perform the functions specified in regulations 16 to 18.

(3) The client shall ensure that appointments under paragraphs (1) and (2) are changed or renewed as necessary to ensure that there are at all times until the end of the construction phase—

(a) a co-ordinator; and

(b) a principal contractor,

filling them.

(4) The client shall—
(a) be deemed for the purposes of these Regulations, save paragraphs (1) and (2) and regulations 14(1)(b) and 19(1)(b), to have been appointed as the co-ordinator or principal contractor for any period for which no person (including himself) has been so appointed; and

(b) accordingly be subject to the duty imposed by regulation 13(2) on a co-ordinator or, as the case may be, the duties imposed by regulations 16 to 18 on a principal contractor.

(5) Any reference in this regulation to appointment is to appointment in writing.

Notification of project by the client

9.—(1) The client shall ensure that notice is given to the Executive—

(a) before design work or planning or other preparation for construction work is begun, containing such of the particulars specified in Schedule 1 as are available; and

(b) as soon as is practicable after the appointment of the principal contractor, containing any information not notified under sub-paragraph (a).

(2) Any notice under paragraph (1) shall be signed by or on behalf of the client or, if sent by electronic means, shall otherwise show that he has approved it.

Client’s duty in relation to information

10.—(1) The client shall ensure that the persons specified in regulation 13(1)(f)(i) to (iii) are promptly provided by the co-ordinator with all the information in the client’s possession, or prepared by the co-ordinator, or which is reasonably obtainable (or with such of the information as is relevant to the person to whom the co-ordinator provides it), including—

(a) any such information in a health and safety file;

(b) any such further information about or affecting the site or the construction work;

(c) information provided by a designer under regulation 14(5);

(d) the minimum notice which will be allowed to the principal contractor, and the contractors directly appointed by the client, for planning and preparation for construction work,

which is relevant to the purposes specified in paragraph (2).

(2) The purposes referred to in paragraph (1) are—
(a) to secure so far as is reasonably practicable the health, safety of persons engaged in the
construction work and the health and safety of persons liable to be affected by the way in which it
is carried out;

(b) without prejudice to sub-paragraph (a), to assist the persons to whom information is provided
under this regulation—

(i) to perform their duties and functions under these Regulations; and

(ii) to determine the adequacy of the resources referred to in regulation 7(2) to be allocated by
them.

The client’s duty in relation to the start of construction phase

11. The client shall ensure that the construction phase does not start unless—

(a) the principal contractor has prepared a construction phase plan which is sufficient to enable the
construction work to start without undue risk to health or safety; and

(b) the requirements of Schedule 2 are complied with.

The client’s duty in relation to the health and safety file

12.—(1) The client shall ensure that the co-ordinator is provided with all the health and safety
information likely to be needed during any subsequent works for inclusion in a record (“the health and
safety file”).

(1) Where a single health and safety file relates to more than one project, site or structure, or where it
includes other related information the client shall ensure that the information relating to each site or
structure can be easily identified.

(2) The client shall take reasonable steps to ensure that after the construction phase the information in the
health and safety file—

(a) is kept available for inspection by any person who may need it to comply with the relevant
statutory provisions; and
(b) is revised as often as may be appropriate to incorporate any relevant new information, including information specified in regulation 4(9)(c) of the Control of Asbestos at Work Regulations 2002.(d)

(3) It shall be sufficient compliance with paragraph (3)(a) by a client who disposes of his entire interest in the site if he delivers the health and safety file to the person who acquires his interest in it and ensures that he is aware of the nature and purpose of the file.

Functions of co-ordinators

13.—(1) The functions of a co-ordinator, referred to in regulation 8(1)(a), are to—

(a) advise and assist the client in undertaking the measures he needs to take to comply with these Regulations (including in determining the adequacy of the resources referred to in regulation 7(2)(a));

(b) identify and extract the information specified in regulation 10;

(c) advise on the suitability and compatability of designs and on any need for modification;

(d) co-ordinate design work, planning and other preparation;

(e) liaise with the principal contractor in relation to any design or change to a design requiring a review of the construction phase plan, during the construction phase;

(f) promptly provide, in a convenient form, to—

(i) every person designing the structure;

(ii) the principal contractor; and

(iii) every contractor who has been or is likely to be appointed by the client,

the information specified in regulation 10 (or such of it as is relevant to him);

(g) prepare, where none exists, and otherwise review and update the health and safety file;

(h) at the end of the construction phase, pass the health and safety file to the client.

(2) A co-ordinator shall so far as is reasonably practicable perform any function specified in paragraph (1) for which he is appointed.

(d) S.I. 2002/2675.
Duties of designers

14.—(1) No designer shall commence work in relation to a project unless—

(a) the client is aware of his duties under these Regulations;
(b) a co-ordinator has been appointed for the project; and
(c) notice of the project has been given to the Executive under regulation 9.

(2) The duties in paragraphs (3) and (4) shall be performed so far as is reasonably practicable, taking due account of other relevant design considerations.

(3) Every designer shall in preparing or modifying a design which may be used in construction work in the United Kingdom avoid risks to the health and safety of any person—

(a) carrying out construction work;
(b) cleaning or maintaining the permanent fixtures and fittings of a structure;
(c) using a structure designed as a place of work; or
(d) liable to be affected by such construction work.

(4) In discharging the duty in paragraph (3), the designer shall—

(a) eliminate hazards which may give rise to risks; and
(b) reduce risks from any remaining hazards,

and in doing so shall give collective measures priority over individual measures.

(5) The designer shall provide with the design sufficient information about aspects of the design of a structure or its construction or maintenance as will adequately assist—

(a) other designers to comply with their duties under this regulation;
(b) contractors to comply with their duties under regulation 19.

Designs prepared or modified outside Great Britain

15. Where a design is prepared or modified outside Great Britain for use in construction work to which these Regulations apply—

(a) the person who commissions it, if he is established within Great Britain; or
(b) if that person is not so established, the client,
shall ensure that regulation 14 is complied with.

Duties of the principal contractor

16.—(1) The principal contractor for a project shall—

(a) plan, manage and monitor the construction phase in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health or safely;

(b) ensure that the requirements of Schedule 2 are complied with.

(c) where necessary for health and safety, draw up rules which are appropriate to the construction site and the activities on it (referred to in these Regulations as “site rules”);

(d) so far as is reasonably practicable, ensure co-ordination of the work, and co-operation among contractors at work during the construction phase;

(e) liaise with the co-ordinator in relation to any design development which may affect planning and management of the construction work;

(f) give reasonable directions to any contractor so far as is necessary to enable the principal contractor to comply with his duties under these Regulations;

(g) where necessary, consult a contractor before finalising such part of the construction plan as is relevant to the work to be performed by him;

(h) ensure that every contractor is given, in sufficient time to enable him to prepare properly, access to such part of the construction plan as is relevant to the work to be performed by him, containing sufficient detail in relation to such work;

(i) ensure that every contractor is given, in sufficient time to enable him to prepare properly, such further information as he needs—

(i) to comply punctually with the duty under regulation 19(4); and

(ii) to carry out the work to be performed by him safely;

(j) identify to each contractor the information specified in regulation 10(1) relating to the contractor’s activity for inclusion in the health and safety file and ensure that it is provided to the co-ordinator promptly;
(k) ensure that the particulars required to be in any notice given under regulation 9 are displayed in a readable condition in a position where they can be read by any worker engaged in the construction work;

(l) take reasonable steps to prevent access by unauthorised persons to the construction site.

(2) The principal contractor shall ensure so far as is reasonably practicable that every worker carrying out the construction work is provided with—

(a) suitable site induction; and

(b) any further information and training which he needs for the particular work to be carried out without undue risk to health or safety.

The construction phase plan

17.—The principal contractor shall—

(a) before the start of the construction phase, prepare a construction phase plan which is sufficient to enable the construction work to start without undue risk to health or safety;

(b) as often as may be appropriate review, revise and refine the construction phase plan; and

(c) in preparing, reviewing, revising and refining such a plan, pay adequate regard to information provided under regulation 13(1)(f) and 14(5).

Co-operation and consultation with workers

18. The principal contractor shall—

(a) make and maintain arrangements which will enable him and the workers engaged in the construction work to co-operate effectively in promoting and developing measures to ensure the health, safety and welfare of the workers and in checking the effectiveness of such measures;

(b) consult those workers or their representatives in good time on matters connected with the project which may affect their health, safety or welfare, so far as they or their representatives are not so consulted on those matters by any employer of theirs;

(c) ensure that such workers or their representatives can inspect and take copies of any information which the principal contractor has or which these Regulations require to be provided to him which
relates to the planning and management of the project, or which otherwise may affect their health, safety or welfare at the site, except any information—

(i) the disclosure of which would be against the interests of national security;

(ii) which he could not disclose without contravening a prohibition imposed by or under an enactment;

(iii) relating specifically to an individual, unless he has consented to its being disclosed;

(iv) the disclosure of which would, for reasons other than its effect on health, safety or welfare at work, cause substantial injury to his undertaking or, where the information was supplied to him by some other person, to the undertaking of that other person; or

(v) any information obtained by him for the purpose of bringing, prosecuting or defending any legal proceedings.

Duties of contractors

19.—(1) No contractor shall carry out construction work in relation to a project unless—

(a) the client is aware of his duties under these Regulations;

(b) a co-ordinator has been appointed for the project;

(c) the contractor has been provided with the name of the principal contractor;

(d) the contractor has been given access to such part of the construction phase plan as is relevant to the work to be performed by him, containing sufficient detail in relation to such work; and

(e) notice of the project has been given to the Executive under regulation 9.

(2) Every contractor shall plan, manage and monitor construction work carried out by him or under his control in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health and safety and in accordance with any construction phase plan.

(3) Every contractor shall provide every worker carrying out the construction work under his control with any information and, in the case of an employee of his, training which he needs for the particular work to be carried out safely, including—

(a) suitable site induction, where not provided by any principal contractor;
(b) information on the risks to their health and safety—

(i) identified by his assessment under regulation 3 of the Management of Health and Safety at Work Regulations 1999\(^{(c)}\); or

(ii) arising out of the conduct by another contractor of his undertaking and of which he is or ought reasonably to be aware;

(c) the measures which have been identified by the contractor in consequence of the assessment as the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions;

(d) any site rules;

(e) the procedures to be followed in the event of serious and imminent danger to such workers; and

(f) the identity of the persons nominated to implement those procedures.

(4) Every contractor shall ensure, so far as is reasonably practicable, that the requirements of Schedule 2 are complied with in respect of any person at work who is under his control.

(5) Every contractor shall —

(a) as soon as is reasonably practicable, provide the principal contractor with any information (including any relevant part of any risk assessment in his possession or control) which might affect the health or safety of any person at work carrying out the construction work or of any person who may be affected by it, or which might justify a review of the construction phase plan;

(b) comply with any directions of the principal contractor given to him under regulation 16(1)(f);

(c) promptly provide the principal contractor with the information in relation to any death, injury, condition or dangerous occurrence which the contractor is required to notify or report under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995\(^{(f)}\);

(d) if a construction phase plan is not complied with, take appropriate action to ensure health and safety; and

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\(^{(c)}\) S.I. 1999/3242; amended by S.I. 2003/2457.

\(^{(f)}\) S.I. 1995/3163.
(e) notify any principal contractor of any significant finding which requires a construction phase plan to be altered or added to.

Health and safety on the site

20.—(1) Every contractor (including any principal contractor) shall comply with the requirements of Schedule 3 insofar as they affect him or any person at work under his control or relate to matters within his control.

(1) Every person (other than a contractor) who controls the way in which any construction work is carried out by a person at work shall comply with the requirements of Schedule 3 insofar as they relate to matters which are within his control.

(2) Paragraph 8 of Schedule 3, which expressly says on whom the duties are imposed, shall have effect, but paragraphs (1) and (2) of this regulation shall not apply to it.

PART 3
GENERAL

Civil liability

21. Breach of a duty imposed by the preceding provisions of these Regulations, other than those imposed by regulations 11, 16(1)(b) and (l), 19(4) and 20 and Schedules 2 and 3, shall not confer a right of action in any civil proceedings insofar as that duty applies for the protection of a person who is not an employee.

Transitional provision

22.—(1) These Regulations shall apply in relation to a project which began before their coming into force, with the following modifications:

(1) Subject to paragraph (3), where the time specified in paragraph (1) or (2) of regulation 8 for the appointment of the co-ordinator, or the principal contractor, occurred before the coming into force of these Regulations, the client shall appoint the co-ordinator or, as the case may be, the principal contractor, as soon as is practicable.

(2) Any planning supervisor or principal contractor appointed under regulation 6 of the Construction (Design and Management) Regulations 1994 (“the 1994 Regulations”) shall, in the absence of an express
appointment by the client, be treated for the purposes of paragraph (2) as having been appointed as the co-
ordinator, or the principal contractor, respectively.

(3) Where notice has been given under regulation 7 of the 1994 Regulations, the references in
regulations 16(1)(k) and 19(1)(e) to notice under regulation 9 shall be construed as being to notice under
that regulation.

Amendment of the Construction (Head Protection) Regulations 1989

23. For paragraph (1) of regulation 2 of the Construction (Head Protection) Regulations 1989(6) there
shall be substituted the following paragraph—

“2.—(1) Subject to paragraph (2) of this regulation, these Regulations shall apply to construction
work within the meaning of the Construction (Design and Construction) Regulations 2006.”.

Amendment of the Workplace (Health, Safety and Welfare) Regulations 1992

24.—(1) In regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992(7) (“the
Workplace Regulations”), there shall be added to the definition of “workplace”—

“(c) a place, including a place within domestic premises, where construction work is being
undertaken”.

(1) For regulation 3(1) of the Workplace Regulations there shall be substituted—

“3(1). These Regulations apply to every workplace except a workplace—

(a) which is or is in or on a ship within the meaning assigned to that word by regulation 2(1) of
the Docks Regulations 1988;

(b) which is a construction site within the meaning of the Construction (Design and
Management) Regulations 2006, and in which the only activity being undertaken is
construction work within the meaning of those Regulations, save that—

(i) regulations 6 and 18 apply to such workplace;

(6) S.I. 1989/2209, to which there are amendments not relevant to these Regulations.

(ii) regulations 7(1A), 10, 15, 16, 18, 19 and 26(1) apply to such workplace which is indoors”.

Amendment of the Management of Health and Safety at Work Regulations 1999

25. The Management of Health and Safety at Work Regulations 1999 shall be amended—

(a) in regulation 4, by inserting “or self-employed person” after “employer”; 
(b) in regulation 5(1), by inserting “self-employed person” after “employer”; 
(c) in regulation 7(5), by substituting “an individual who is an employer and” for “a self-employed employer”.

Revocation of instruments

26. The instruments specified in column 1 of Schedule 5 are revoked to the extent specified in column 3 of that Schedule.
SCHEDULE 1

PARTICULARS TO BE NOTIFIED TO THE EXECUTIVE

1. Date of forwarding.

2. Exact address of the construction site.

3. Name and address of the client.

4. Name and address of the co-ordinator.

5. Name and address of the principal contractor.

6. Dated planned for the start of the construction phase.

7. Planned duration of the construction phase.

8. Estimated maximum number of people at work on the construction site.

9. Planned number of contractors on the construction site.

10. Name and address of any contractor already appointed.

11. Name and address of any designer already engaged.
Sanitary conveniences

1. Suitable and sufficient sanitary conveniences shall be provided or made available at readily accessible places. So far as is reasonably practicable, rooms containing sanitary conveniences shall be adequately ventilated and lit.

2. So far as is reasonably practicable, sanitary conveniences and the rooms containing them shall be kept in a clean and orderly condition.

3. Separate rooms containing sanitary conveniences shall be provided for men and women, except where and so far as each convenience is in a separate room the door of which is capable of being secured from the inside.

Washing facilities

4. Suitable and sufficient washing facilities, including showers if required by the nature of the work or for health reasons, shall so far as is reasonably practicable be provided or made available at readily accessible places.

5. Washing facilities shall be provided—

   (a) in the immediate vicinity of every sanitary convenience, whether or not provided elsewhere; and

   (b) in the vicinity of any changing rooms required by paragraph 15 whether or not provided elsewhere.

6. Washing facilities shall include—

   (a) a supply of clean hot and cold, or warm, water (which shall be running water so far as is reasonably practicable); and

   (b) soap or other suitable means of cleaning; and

   (c) towels or other suitable means of drying.

7. Rooms containing washing facilities shall be sufficiently ventilated and lit.

8. Washing facilities and the rooms containing them shall be kept in a clean and orderly condition.
9. Subject to paragraph 10 below, separate washing facilities shall be provided for men and women, except where and so far as they are provided in a room the door of which is capable of being secured from inside and the facilities in each such room are intended to be used by only one person at a time.

10. Paragraph 9 above shall not apply to facilities which are provided for washing hands, forearms and face only.

**Drinking water**

11. An adequate supply of wholesome drinking water shall be provided or made available at readily accessible and suitable places.

12. Every supply of drinking water shall be conspicuously marked by an appropriate sign where necessary for reasons of health and safety.

13. Where a supply of drinking water is provided, there shall also be provided a sufficient number of suitable cups or other drinking vessels unless the supply of drinking water is in a jet from which persons can drink easily.

**Changing rooms and lockers**

14. (1) Suitable and sufficient changing rooms shall be provided or made available at readily accessible places if—

(a) a worker has to wear special clothing for the purposes of his work; and

(b) he cannot, for reasons of health or propriety, be expected to change elsewhere, being separate rooms for, or separate use of rooms by, men and women where necessary for reasons of propriety.

(2) Changing rooms shall—

(a) be provided with seating;

(b) include, where necessary, facilities to enable a person to dry any such special clothing and his own clothing and personal effects.

(3) Suitable and sufficient facilities shall, where necessary, be provided or made available at readily accessible places to enable persons to lock away—
(a) any such special clothing which is not taken home;

(b) their own clothing which is not worn during working hours; and

(c) their personal effects.

Facilities for rest

15.—(1) Suitable and sufficient rest rooms or rest areas shall be provided or made available at readily accessible places.

(1) Rest rooms and rest areas shall—

(a) include suitable arrangements to protect non-smokers from discomfort caused by tobacco smoke;

(b) be equipped with an adequate number of tables and adequate seating with backs for the number of persons at work likely to use them at any one time;

(c) where necessary, include suitable facilities for any person at work who is a pregnant woman or nursing mother to rest lying down;

(d) include suitable arrangements to ensure that meals can be prepared and eaten; and

(e) include the means for boiling water.
Safe places of work

1.—(1) There shall so far as is reasonably practicable, be suitable and sufficient safe access to and egress from every place of work and to and from every other place provided for the use of any person while at work, which access and egress shall be properly maintained.

(1) Every place of work shall, so far as is reasonably practicable, be made and kept safe for any person at work there.

(2) Suitable and sufficient steps shall be taken to ensure, so far as is reasonably practicable, that no person uses access or egress, or gains access to any place, which does not comply with the requirements of sub-paragraph (1) or (2) respectively.

(3) Every place of work shall, so far as is reasonably practicable, have sufficient working space and be so arranged that it is suitable for any person who is working or who is likely to work there, taking account of any necessary work equipment present.

Good order

2.—(1) Every part of a construction site shall, so far as is reasonably practicable, be kept in good order and every part of a construction site which is used as a place of work shall be kept in a reasonable state of cleanliness.

(1) Where necessary in the interests of health and safety, the perimeter of a construction site shall, so far as is reasonably practicable, be identified by suitable signs and the site shall be so arranged that its extent is readily identifiable.

(2) No timber or other material with projecting nails shall—

(a) be used in any work; or

(b) be allowed to remain in any place,

if the nails may be a source of danger to any person.
Stability of structures

3.—(1) All practicable steps shall be taken, where necessary to prevent danger to any person, to ensure that any new or existing structure or any part of such structure which may become unstable or in a temporary state of weakness or instability due to the carrying out of construction work does not collapse.

(1) Shutterings, temporary supports and buttresses must be of such design, and so installed and maintained as to withstand any strains and stresses which may be imposed on them.

(2) No part of a structure shall be so loaded as to render it unsafe to any person.

Demolition or dismantling

4.—(1) The demolition or dismantling of a structure, or part of a structure, shall be planned and carried out in such a manner as to prevent, so far as is practicable, danger.

(1) The arrangements for carrying out such demolition or dismantling shall be recorded in writing.

Explosives

5.—(1) So far as is reasonably practicable, explosives shall be stored, transported and used safely and securely.

(1) Without prejudice to paragraph (1), an explosive charge shall be used or fired only if suitable and sufficient steps have been taken to ensure that no person is exposed to risk of injury from the explosion or from projected or flying material caused thereby.

Excavations

6. (1) All practicable steps shall be taken, where necessary to prevent danger to any person, including, where necessary, the provision of supports or battering, to ensure that—

(a) any excavation or part of an excavation does not collapse; and

(b) the material of any excavation is not dislodged.

(2) Suitable and sufficient steps shall be taken to prevent any person, work equipment, or any accumulation of material from falling into any excavation, or any material being dislodged.
(3) Without prejudice to sub-paragraphs (1) and (2), suitable and sufficient steps shall be taken, where necessary, to prevent any part of an excavation or ground adjacent to it from being overloaded by work equipment or material.

(4) An excavation which is supported shall not be used to carry out construction work unless—

(a) the excavation, and any work equipment and materials which affect its safety, have been inspected by a competent person—

   (i) at the start of the shift in which the work is to be carried out;

   (ii) after any event likely to have affected the strength or stability of the excavation; and

   (iii) after any accidental fall or dislodgement of any material; and

(b) the person who carried out the inspection is satisfied that the work can be safely carried out there.

(5) Where the person who carried out the inspection has under paragraph 8(1)(a) informed the person on whose behalf the inspection was carried out of any matter about which he is not satisfied, work shall not be carried out in the excavation until the matters have been satisfactorily remedied.

Cofferdams and caissons

7.—(1) Every cofferdam or caisson shall be—

(a) of suitable design and construction;

(b) appropriately equipped so that workers can gain shelter or escape if water or materials enter it; and

(c) properly maintained.

(2) A cofferdam or caisson shall be used to carry out construction work only if—

(a) the cofferdam or caisson, and any work equipment and materials which affect its safety, have been inspected by a competent person—

   (i) at the start of the shift in which the work is to be carried out; and

   (ii) after any event likely to have affected the strength or stability of the cofferdam or caisson; and
(iii) the person who carried out the inspection is satisfied that the work can be safely carried out there.

(3) Where the person who carried out the inspection has under paragraph 8(1)(a) informed the person on whose behalf the inspection was carried out of any matter about which he is not satisfied, work shall not be carried out in the cofferdam or caisson until the matters have been satisfactorily remedied.

**Reports of inspections**

8.—(1) The person who carries out an inspection under paragraph 6 or 7 shall, before the end of the shift within which the inspection is completed—

(a) where he is not satisfied that the construction work can be carried out safely at the place inspected, inform the person for whom the inspection was carried out of any matters about which he is not satisfied; and

(b) prepare a report which shall include the particulars set out in Schedule 4.

(2) A person who prepares a report under paragraph (1) shall, within 24 hours of completing the inspection to which the report relates, provide the report or a copy of it to the person on whose behalf the inspection was carried out.

(3) Where the person owing a duty under paragraph (1) or (2) is an employee or works under the control of another, his employer or, as the case may be, the person under whose control he works shall ensure that he performs the duty.

(4) The person on whose behalf the inspection was carried out shall—

(a) keep the report or a copy of it available for inspection by an inspector appointed under section 19 of the 1974 Act—

(i) at the site of the place of work in respect of which the inspection was carried out until that work is completed; and

(ii) after that, for 3 months; and

send to the inspector such extracts from or copies of it as the inspector may from time to time require.
Energy distribution installations

9.—(1) Where necessary to prevent danger, energy distribution installations shall be located, checked and clearly indicated.

(1) Where there is a risk from electric power cables—

(a) they shall be redirected away from the area of risk; or

(b) the current shall be cut off; or

(c) if it is not reasonably practicable to comply with paragraph (a) or (b), suitable warning notices and—

(i) barriers suitable for excluding work equipment which is not needed; or

(ii) where vehicles need to pass beneath the cables, suspended protections; or

(iii) in either case, measures providing an equivalent level of safety, shall be provided or (in the case of measures) taken.

(2) No construction work which is liable to create a risk to health or safety from an underground service, or from damage to or disturbance of it, shall be carried out, unless suitable and sufficient steps (including any steps required by this regulation) have been taken to prevent such risk, so far as is reasonably practicable.

Prevention of drowning

10.—(1) Where in the course of construction work any person is liable to fall into water or other liquid with a risk of drowning, suitable and sufficient steps shall be taken—

(a) to prevent, so far as is reasonably practicable, such person from so falling; and

(b) to minimise the risk of drowning in the event of such a fall; and

(c) to ensure that suitable rescue equipment is provided, maintained and, when necessary, used so that such person may be promptly rescued in the event of such a fall.

(2) Suitable and sufficient steps shall be taken to ensure the safe transport of any person conveyed by water to or from any place of work.
(3) Any vessel used to convey any person by water to or from a place of work shall not be overcrowded or overloaded.

Traffic routes

11.—(1) Every construction site shall be organised in such a way that, so far as is reasonably practicable, pedestrians and vehicles can move safely.

(1) Traffic routes shall be suitable for the persons or vehicles using them, sufficient in number, in suitable positions and of sufficient size.

(2) A traffic route shall not satisfy sub-paragraph (2) unless suitable and sufficient steps are taken to ensure that—

(a) pedestrians or vehicles may use it without causing danger to the health or safety of persons near it;

(b) any door or gate for pedestrians which leads onto a traffic route is sufficiently separated from it to enable them from a place of safety to see any approaching vehicle;

(c) there is sufficient separation between vehicles and pedestrians to ensure safety or, where this is not reasonably practicable—

(i) there are provided other means for the protection of pedestrians; and

(ii) there are effective arrangements for warning any person liable to be crushed or trapped by any vehicle of its approach;

(d) any loading bay has at least one exit point for the exclusive use of pedestrians; and

(e) where it is unsafe for pedestrians to use a gate intended primarily for vehicles, one or more doors for pedestrians is provided in the immediate vicinity of the gate, is clearly marked and is kept free from obstruction.

(3) Every traffic route shall be—

(a) indicated by suitable signs where necessary for reasons of health or safety;

(b) regularly checked; and

(c) properly maintained.
(4) No vehicle shall be driven on a traffic route unless, so far as is reasonably practicable, that traffic route is free from obstruction and permits sufficient clearance.

**Vehicles**

12. — (1) Suitable and sufficient steps shall be taken to prevent or control the unintended movement of any vehicle.

(1) Suitable and sufficient steps shall be taken to ensure that, where any person may be endangered by the movement of any vehicle, the person having effective control of the vehicle shall give warning to any person who is liable to be at risk from the movement of the vehicle.

(2) Any vehicle being used for the purposes of construction work shall when being driven, operated or towed—

(a) be driven, operated or towed in such a manner as is safe in the circumstances; and

(b) be loaded in such a way that it can be driven, operated or towed safely.

(3) No person shall ride or be required or permitted to ride on any vehicle being used for the purposes of construction work otherwise than in a safe place thereon provided for that purpose.

(4) No person shall remain or be required or permitted to remain on any vehicle during the loading or unloading of any loose material unless a safe place of work is provided and maintained for such person.

(5) Suitable and sufficient measures shall be taken so as to prevent any vehicle from falling into any excavation or pit, or into water, or overrunning the edge of any embankment or earthwork.

**Prevention of risk from fire etc.**

13. Suitable and sufficient steps shall be taken to prevent, so far as is reasonably practicable, the risk of injury to any person during the carrying out of construction work arising from—

(a) fire or explosion;

(b) flooding; or

(c) any substance liable to cause asphyxiation.
Emergency procedures

14.—(1) Where necessary in the interests of the health and safety of any person on a construction site, there shall be prepared and, where necessary, implemented suitable and sufficient arrangements for dealing with any foreseeable emergency, which arrangements shall include procedures for any necessary evacuation of the site or any part thereof.

(1) In making arrangements under paragraph (1), account shall be taken of—

(a) the type of work for which the construction site is being used;
(b) the characteristics and size of the construction site and the number and location of places of work on that site;
(c) the work equipment being used;
(d) the number of persons likely to be present on the site at any one time; and
(e) the physical and chemical properties of any substances or materials on or likely to be on the site.

(2) Where arrangements are prepared pursuant to sub-paragraph (1), suitable and sufficient steps shall be taken to ensure that—

(a) every person to whom the arrangements extend is familiar with those arrangements; and
(b) the arrangements are tested by being put into effect at suitable intervals.

Emergency routes and exits

15.—(1) Where necessary in the interests of health and safety of any person on a construction site, a sufficient number of suitable emergency routes and exits shall be provided to enable any person to reach a place of safety quickly in the event of danger.

(1) An emergency route or exit provided pursuant to sub-paragraph (1) shall lead as directly as possible to an identified safe area.

(2) Any emergency route or exit provided in accordance with paragraph (1), and any traffic route giving access thereto, shall be kept clear and free from obstruction and, where necessary, provided with emergency lighting so that such emergency route or exit may be used at any time.

(3) In making provision under sub-paragraph (1), account shall be taken of the matters in sub-paragraph (2) of paragraph 14.
(4) All emergency routes or exits shall be indicated by suitable signs.

**Fire detection and fire-fighting**

16. — (1) There shall be provided on a construction site where necessary in the interests of the health and safety of any person at work on that site suitable and sufficient—

(a) fire-fighting equipment; and

(b) fire detectors and alarm systems,

which shall be suitably located.

(2) In making provision under sub-paragraph (1), account shall be taken of the matters in sub-paragraph (2) of paragraph 14.

(3) Any fire-fighting equipment, fire detector or alarm system provided under sub-paragraph (1) shall be examined and tested at suitable intervals and properly maintained.

(4) Any fire-fighting equipment which is not designed to come into use automatically shall be easily accessible.

(5) Every person at work on a construction site shall, so far as is reasonably practicable, be instructed in the correct use of any fire-fighting equipment which it may be necessary for him to use.

(6) Where a work activity may give rise to a particular risk of fire, a person shall not carry out such work unless he is suitably instructed.

(7) Fire-fighting equipment shall be indicated by suitable signs.

**Fresh air**

17. — (1) Suitable and sufficient steps shall be taken to ensure, so far as is reasonably practicable, that every place of work or approach thereto has sufficient fresh or purified air to ensure that the place or approach is safe and without risks to health.

(1) Any plant used for the purpose of complying with sub-paragraph (1) shall, where necessary for reasons of health or safety, include an effective device to give visible or audible warning of any failure of the plant.
Temperature and weather protection

18.—(1) Suitable and sufficient steps shall be taken to ensure, so far as is reasonably practicable, that during working hours the temperature at any place indoors is reasonable having regard to the purpose for which that place is used.

(1) Every place of work outdoors shall, where necessary to ensure the health and safety of persons at work there, be so arranged that so far as is reasonably practicable and having regard to the purpose for which that place is used and any protective clothing or work equipment provided for the use of any person at work there, it provides protection from adverse weather.

Lighting

19.—(1) There shall be suitable and sufficient lighting in respect of every place of work and approach thereto and every traffic route, which lighting shall, so far as is reasonably practicable, be by natural light.

(1) The colour of any artificial lighting provided shall not adversely affect or change the perception of any sign or signal provided for the purposes of health and safety.

(2) Without prejudice to sub-paragraph (1), suitable and sufficient secondary lighting shall be provided in any place where there would be a risk to the health or safety of any person in the event of failure of primary artificial lighting.
SCHEDULE 4  

PARTICULARS TO BE INCLUDED IN A REPORT OF INSPECTION

1. Name and address of the person on whose behalf the inspection was carried out.
2. Location of the place of work inspected.
3. Description of the place of work or part of that place inspected (including any work equipment and materials).
4. Date and time of the inspection.
5. Details of any matter identified that could give rise to a risk to the health or safety of any person.
6. Details of any action taken as a result of any matter identified in paragraph 5 above.
7. Details of any further action considered necessary.
8. Name and position of the person making report.
## SCHEDULE 5

### Regulation 26

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Status of this Document

This document contains guidance on the [proposed] Construction (Design and Management) Regulations [2006] (CDM\textsuperscript{2006}) from the Health and Safety Commission (HSC). Following the guidance is not compulsory and you are free to take other action. Only the courts can give an authoritative interpretation of the law, but if you follow the guidance you will normally be doing enough to comply. Health and safety inspectors seek to secure compliance with the law and may refer to this guidance as illustrating good practice.

CDM\textsuperscript{2006} applies to both employers and the self-employed without distinction except for the requirements relating to training (Regulation 19(3)) and civil liability (Regulation 21). In considering the application of these Regulations and guidance to persons working under your direction, you should consider the following:

If you have people working under your control and direction who are treated as self-employed for tax and national insurance purposes, they may still be treated as your employees for health and safety purposes. You may, therefore, still be responsible for their training. It is important to remember that your duties under these Regulations and other health and safety law cannot be passed on to someone else by means of a contract.

Reading this Document

For convenience, the full text of the Regulations is included at Appendix 1. Key terms and abbreviations are explained in the glossary (Appendix 7). However, this document does not provide guidance on the site safety and welfare requirements in Schedules 2 and 3 (previously covered by the Construction (Health, Safety and Welfare) Regulations 1996 (CHSW)). Guidance on how to comply with those requirements can be found in HSG 150 and other HSE publications\textsuperscript{1}.

There are a number of lists of topics that you may need to consider. These lists are not exhaustive, nor are all the items included relevant to every construction project. They are provided to illustrate the sort of issues that are often relevant.

When deciding what you need to do to comply with these Regulations your focus should always be on action to reduce and manage risks. Any paperwork produced must help with communication and risk management. It is not a worthwhile end in itself. Pointless paperwork is, at best, a waste of effort and at worst a dangerous distraction from the real business of risk reduction and management.

Health and safety is one part of a much larger picture and it rarely makes sense to address it in isolation. HSC’s aim is for health and safety to be integrated into normal management and working procedures, not treated as a bolt-on extra. This guidance is normally presented in this wider context, but the legal requirements only extend to matters affecting health and safety.

\textsuperscript{1} See http://www.hse.gov.uk/construction/information.htm and http://www.hsebooks.com/
Chapter 1. Introduction

1. The Construction (Design and Management) Regulations [2006] (CDM\textsuperscript{2006}) come into force on [1\textsuperscript{st} October 2006\textsuperscript{2}]. They replace the Construction (Design and Management) Regulations 1994 (CDM\textsuperscript{1994}) and the Construction (Health, Safety and Welfare) Regulations 1996 (CHSW). This document provides guidance on the duties set out in the Regulations. It replaces the ACoP to the Construction (Design and Management) Regulations 1994 from the [1st October 2006].

2. Most injuries and ill health resulting from construction work are avoidable with good co-operation, communication, design, planning and management. The industry spans a vast range of activities, hazards, materials, techniques, employment patterns, contractual arrangements and approaches to management of the project. Whatever the challenges or approach, what counts is that the health and safety of workers, and others affected by construction work is safeguarded. Getting this right at the design or planning stage not only reduces risks during construction, but throughout the whole life of a structure, including its eventual demolition.

3. The key aim of CDM\textsuperscript{2006} is to integrate health and safety into the management of the project and to encourage everyone involved to work together to:
   a) improve the planning and management of projects from the very start;
   b) identify risks early on so that they can be eliminated or reduced at the design or planning stage and the remaining risks can be properly managed;
   c) target effort where it can do the most good in terms of health and safety; and
   d) discourage bureaucracy.

4. To achieve this each project needs a competent team of designers, contractors and other specialists who are:
   a) appointed early, where they can contribute significantly to design and planning or have a lot of planning and preparation to do;
   b) encouraged to work together as a team with the client to identify and solve potential problems before they become fixed;
   c) clear about their roles and responsibilities; and
   d) have enough time and resources to do their work, including design, planning, preparation and construction, properly.

5. The traditional procurement emphasis on lowest price overlooks the need for the team to work together to deliver best value. Time and thought invested at the start of projects is likely to pay dividends\textsuperscript{3} not only in improved health and safety, but also in:
   a) reductions in the overall cost of ownership because the structure is designed for safe and easy maintenance and cleaning work, and because key information is available in the health and safety file;
   b) reduced delays waiting for crucial information, from unforeseen problems or abortive work;

\textsuperscript{2} This depends on the response to this consultation exercise. New regulations now come into force in April or October.

\textsuperscript{3} See http://www.constructingexcellence.org.uk/productivity/demonstration.jsp?level=0 for further information.
c) more reliable costings and completion dates;
d) improved communication and co-operation between key parties; and
e) improved quality.

Scope
6. CDM\textsuperscript{2006} applies to all construction work in Great Britain and its territorial sea, but some of
the requirements, mainly the ones requiring appointments or particular documents, only apply to
notifiable projects\textsuperscript{4}. The Regulations affect and place duties on:
   a) clients who make the key decisions about project resources, choose the construction team and
determine how it works;
   b) architects, engineers, surveyors, other designers, and others who decide what is to be
constructed, and by their decisions influence risk during construction, maintenance and use;
   c) those who co-ordinate the design work, planning and preparation;
   d) contractors who have to plan their work and co-operate with each other to manage the
remaining risks;
   e) workers who are mainly the ones at risk of injury or ill health, sometimes many years later.

7. Health and safety is one part of a much larger picture
and it rarely makes sense to address it in isolation. HSC’s aim
is for health and safety to be integrated into the normal
management and working procedures, not treated as a bolt-on extra. The advice contained in this document is normally
presented in this wider context, but the legal requirements
in CDM\textsuperscript{2006} only extend to health and safety matters.

8. CDM\textsuperscript{2006} applies to both employers and the self-employed without distinction except for training\textsuperscript{5} and civil
liability. It is important to remember that such legal duties
cannot be passed on to someone else by means of a contract.

9. CDM\textsuperscript{2006} is only one of the legal requirements that
applies to construction work. Other health and safety law
including the Health and Safety at Work etc. Act 1974
(HSWA), the Management of Health and Safety at Work
Regulations 1999 (Management Regulations) and the Work
at Height Regulations 200X. Other key Regulations are listed
in appendix 5. Guidance on these duties in construction and
those in Schedules 2 and 3 of the Regulations can be found in HSG 150\textsuperscript{6}.

10. Other legal requirements also apply to the finished or modified structure and need to be
addressed. These include Building Regulations (in Scotland, Building Standards), the Workplace

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\textsuperscript{4} See paragraph 24.
\textsuperscript{5} Employers are responsible for training their employees. Genuinely self-employed workers (people working under the
control of others are usually their employees for health and safety purposes, even if they are treated as self-employed
for other purposes) are responsible for their own training. See paragraph 240.
\textsuperscript{6} Health and safety in construction – ISBN 0717621065
Draft guidance

Construction work

Regulation 2

11. Construction work is building, civil engineering or engineering construction work, including:
   a) associated preparations, cleaning, structural maintenance (including repair, renovation, upkeep and re-decoration), demolition and dismantling as well as clearing or otherwise preparing the site for use at the end of the work;
   b) the installation, commissioning, maintenance, repair or removal of any services, equipment where it is fixed to the building (eg air-conditioning units, lifts and telecommunications) or big plant (eg silos, chemical/nuclear reactors and boilers that are virtually buildings in their own right and where the same structural erection, maintenance and other issues arise) – mechanical maintenance of plant is not covered (see paragraph 12 b);
   c) offshore construction within the territorial sea, except for the construction of fixed offshore oil and gas installations at the place where they will be used;
   d) exploratory work in preparation for construction, including the drilling of exploratory boreholes and investigatory work, but not site surveys;
   e) construction of temporary structures used during construction work (eg formwork, falsework, scaffolds or other structures providing support or means of access).

12. The following are not construction work:
   a) putting up and taking down marquees and similar tents designed to be re-erected at various locations;
   b) the maintenance of plant, except when this is structural (eg painting a large silo) or done as part of other construction work;
   c) tree planting and general horticultural work;
   d) archaeological investigations;
   e) positioning and removal of lightweight partitions, such as those used to divide open-plan offices or to create exhibition stands and displays;
   f) erection of scaffolds for support or access in non-construction work;
   g) surveying – this includes taking levels, making measurements and examining a structure for faults;
   h) work to or on vessels such as ships and mobile offshore installations;
   i) off site manufacture of items for later use in construction work (eg roof trusses, pre-cast concrete panels, bathroom pods and similar prefabricated elements and components);
   j) fabrication of elements which will form parts of offshore installations.

13. Some construction projects include operations, such as those described in the previous paragraph which are not themselves construction work. Where this is the case, the overlap between the construction and non-construction work should be addressed in the management arrangements and the health and safety plan.

14. HSWA and other health and safety legislation, including requirements listed in appendix 5, apply whether or not an activity is construction work, as explained above.

Planning and managing construction projects

15. These regulations are intended to focus attention on planning and management throughout construction projects, from design concept onwards. The aim is for health and safety to be treated as an essential, but normal part of projects and an integral part of the responsibilities of everyone involved – not an afterthought or bolt on extra. The effort devoted to planning and managing a project should be in proportion to the risk and complexity involved. For example demolition work normally needs meticulous planning and management to ensure that lives are not put at risk, but painting a house does not — as long as the risk of falls is properly addressed.
16. The client has the biggest single influence over the competence and resources of the construction team and the way the project is run. This is why the Regulations require them to ensure that arrangements are in place for the planning and management of the project from the start. Where the work is notifiable or involves complicated or high-risk work clients need help to develop and implement these arrangements. The construction team needs to provide them with the support they need. In the case of notifiable projects this has to be formalised by the appointment of a co-ordinator and principal contractor.

17. Good co-operation and communication between all of the parties involved in a project is essential if risks are to be identified early on and properly addressed, allowing the project to run efficiently. A team of designers, consultants, contractors and even manufacturers who work closely together provides the most effective basis. This allows the client, designers, contractors and facilities management experts, together, to identify the best solution for the clients needs, taking account of the practicalities of construction, maintenance and use. Even on projects where it is not practical to formally establish an integrated team, the client, designer, contractors and others involved in the project still need to work together.

18. If there are other projects on the same or neighbouring sites (eg adjacent units on the same industrial estate) then the co-operation and communication needs to extend to those involved with such projects. If this need can be identified early on, the risks that one project may cause for the other can also be identified and addressed in the early stages of project planning. If potential problems are not identified until the actual work has started they can be much more difficult to address and close liaison between the contractors will be needed.

19. To make the team a success the:
   a) core team (co-ordinator, main designers, principal contractor and key specialists) needs to be appointed and involved as early as possible;
   b) planning and management arrangements need to be agreed from the feasibility and concept stage (although they may be developed as the project progresses), the gateway approach provides a useful framework – see appendix 4;
   c) roles and responsibilities of the team members need to be agreed and clearly set out;
   d) arrangements to encourage good communication need to be agreed and put into practice;
   e) timetable and resources allowed must be realistic; and
   f) lessons need to be learned – what works, what needs to be improved.

20. Managing projects is also about getting the practical precautions right on site and Schedule 3 to the Regulations covers some key issues. Regulation 20 is intended to place the duty to ensure that these requirements are complied with on those who are in the best position to ensure that the precautions are properly developed and implemented. The main responsibility normally rests on the contractors who control the work. This includes principal contractors, particularly for site wide issues like traffic routes.

21. Others who control the way in which the work is done also have duties under Schedule 3. This doesn’t mean everyone involved with design, planning or management of the project legally must ensure that all of Schedule 3 is complied with. They only have such duties if, in practice, they exercise significant control over the actual working methods, safeguards and site conditions.

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7 Others are addressed in the Regulations listed in appendix 5.
Draft guidance

22. If, for example, a client who requires an excavation to be made and supported in a particular way also has a duty to ensure it complied with paragraph 6 of Schedule 3, so does the contractor doing the excavation work.

23. Effective health and safety requires clear lines of management. Those directly responsible for carrying out the work normally also have the primary responsibility. Others should not ignore obvious shortcomings, but neither should they undermine the agreed management arrangements.

Notifiable projects

Regulations 2(3) and 9

24. HSE must be notified of projects, except those for domestic clients, where construction work is expected to:
   - last more than 30 working days; or
   - involve more than 500 person days, eg 50 people working for over 10 days.

25. Where a small project, which is not notifiable, requires a short extension or small increase in the number of people, there is no need to notify HSE. However, if the work overruns, or the scope changes significantly so that it becomes notifiable, HSE should be informed.

26. The information that has to be sent to HSE is set out in Schedule 1 of CDM 2006. Form 10(rev) can be used and is available from HSE’s local offices or can be completed online. You do not have to use this form, as long as you provide all of the specified information. Notification should be sent to the HSE office that covers the site where the construction work is to take place.

27. Clients, or co-ordinators acting on their behalf, should notify HSE before design work begins. If the principal contractor is not appointed at that time, then another, updated, notification must be made after they have been appointed. Any missing information must be notified once it becomes available; and the notifier should make clear that it relates to an earlier notification. If a significant change occurs, it is helpful to notify HSE, for example when a new principal contractor is appointed or if the start date changes by a month or more.

Non-notifiable projects

28. The duties on designers and contractors apply to non-notifiable projects, but clients do not have to appoint a co-ordinator or principal contractor and plans do not normally need to be in writing. However, where the work of different designers or contractors interacts, arrangements for co-ordination are likely to be needed. The roles of the co-ordinator and principal contractor provide guidelines as to what needs to be done, but in low risk projects a low-key approach is sufficient.

29. If such co-ordination is needed it is normally sensible for the most appropriate member of the construction team to co-ordinate the work. For example:
   - the architect, lead designer or contractor, who is carrying out the bulk of the design work, should normally co-ordinate the design work;
   - the builder or main contractor, if there is one, should normally co-ordinate construction work.

30. Although a written plan is not required for non-notifiable projects, apart from demolition work, other high risk work must be well planned and managed. This includes work involving:
   - significant structural alterations;
   - deep excavations, particularly in unstable or contaminated ground;

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8 https://www.hse.gov.uk/forms/notification/f10hseoffices.htm
10 Addresses of HSE’s local offices and the areas they cover can be obtained from HSE’s Infoline (08701 545500) or HSE’s internet site http://www.hse.gov.uk/contact/maps/
11 Schedule 4, paragraph 4 requires the system of work to be written out for demolition work, even if it is not part of a notifiable project. See also paragraph 31.
Draft guidance

- unusual working methods or safeguards;
- ionising radiation or other significant health hazards;
- nearby high voltage powerlines;
- a risk of falling into fast flowing water;
- diving;
- explosives;
- heavy or complicated lifting operations.

31. It is vital that those doing such work understand the risks involved and what to do about them. If they have done the same thing many times before or they understand what they have to do after a couple of minutes of simple explanation, then there is no need to write it down. In other simple cases a brief summary that clearly sets out who does what and in what order is enough. If this is not sufficient something closer to the construction phase plan may be needed. (See paragraph 189.)

Summary of requirements

32. The following chart and table summarise the duties under CDM 2006. A number only apply to projects which are notifiable, largely to avoid unnecessary paperwork. These are mainly requirements to make appointments or to prepare plans or other documents. These requirements are indicated later in this document by putting (Notifiable projects only) after the heading.
**Draft guidance**

**I need some construction work done!**

"You can get it quicker and cheaper than that!"

---

**Likely to be notifiable?**

No

Yes

**Appoint competent co-ordinator**

**Appoint competent designer(s)**

**Continue design**
Select key contractors
Plan for buildability reviews
What do you want in the h&s File
Communicate your business needs
Ensure critical timings are communicated

**Appoint competent principal contractor**

**Appoint competent contractor(s)**

**Ready to award contracts?**

Yes

Start work on site

Finish work on site

Yes

Choose co-ordinator to help you.
Tell them about your business needs
See how they can help
Tell them what you want them to do
Notify HSE
Begin design

**Notifiable if work is expected to:**
last more than 30 working days; or
involve more than 500 person days, eg 50 people working for over 10 days and not for domestic client

**Think through what you really want/need**
cost,
timing,
time,
team needed

**Notifiable projects only**

**All projects**

**Key:**

- Notifiable projects only
- All projects

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"Shortcuts always cost more and take longer in the end."

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"You can get it quicker and cheaper than that!"

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"You can get it quicker and cheaper than that!"
## Duty-holders

<table>
<thead>
<tr>
<th>Duty-holders</th>
<th>All construction work</th>
<th>Notifiable projects</th>
</tr>
</thead>
</table>
| **Clients**  | ✓ Check competence of all appointees  
✓ Ensure there are suitable management arrangements for the project  
✓ Allow sufficient time and resources for all stages  
(* Excluding domestic clients) | ✓ Appoint co-ordinator and ensure job done properly*  
✓ Appoint principal contractor*  
✓ Provide information  
✓ Make sure that the construction phase does not start unless there are suitable:  
  o welfare facilities, and  
  o construction phase plan  
✓ Retain and provide access to the health and safety file  
(* There must be a co-ordinator and principal contractor until the end of the construction phase) |
| **Co-ordinators** | ✓ Advise and assist the client with his/her duties;  
✓ Notify HSE  
✓ Co-ordinate design work  
✓ Manage health and safety communication between client, designers and contractors  
✓ Liaise with principal contractor re ongoing design  
✓ Prepare/update health and safety file |
| **Designers** | ✓ Eliminate hazards and reduce risks due to design  
✓ Provide information about remaining risks | ✓ Check client is aware of duties and co-ordinator has been appointed  
✓ Check HSE has been notified *  
✓ Provide any information needed for the health and safety file |
| **Principal contractors** | ✓ Plan, manage and monitor construction phase in liaison with contractors  
✓ Prepare, develop and implement a written plan and site rules. (Initial plan completed before the construction phase begins.)  
✓ Give contractors relevant parts of the plan  
✓ Make sure suitable welfare facilities are provided from the start and maintained throughout the construction phase.  
✓ Check competence of all their appointees  
✓ Ensure all workers have site inductions and any further information and training needed for the work  
✓ Consult with the workers  
✓ Liaise with co-ordinator re ongoing design  
✓ Secure the site |
| **Contractors** | ✓ Plan, manage and monitor own work and that of workers  
✓ Check competence of all their appointees and workers  
✓ Train own employees  
✓ Provide information to their workers  
✓ Comply with requirements in Schedule 2 & 3 and other regulations  
✓ Ensure there are adequate welfare facilities for their workers | ✓ Check client is aware of duties and a co-ordinator has been appointed and HSE notified before starting work  
✓ Co-operate with principal contractor in planning and managing work, including reasonable directions and site rules  
✓ Provide any information needed for the health and safety file  
✓ Inform principal contractor of problems with the plan  
✓ Inform principal contractor of reportable accidents and dangerous occurrences |
| **Everyone** | ✓ Check own competence  
✓ Co-operate with others involved in the project  
✓ Report obvious risks  
✓ Comply with requirements in Schedule 3 and other regulations for any work under their control. |
Chapter 2. Clients

33. Clients have substantial influence and contractual control and must exercise this responsibly to ensure that a competent construction team is appointed and that it can work together effectively to identify, reduce and manage risks associated with the construction work. Their decisions and approach, determine:
   a) the time, money and other resources available for projects;
   b) who makes up the team, their competence, when they are appointed and who does what;
   c) whether the team is encouraged to co-operate and work together effectively;
   d) whether they have the information that they need about the site and any existing structures;
   e) the arrangements for managing and co-ordinating their work.

34. Because this is so important clients are accountable, under CDM2006, for the impact their approach has on the health and safety of those working on or affected by the project. However, the Regulations also recognise that many know little about construction health and safety, so clients are not required or expected to plan or manage projects themselves. Nor do they have to develop substantial expertise in construction health and safety, unless this is central to their business. Clients must ensure that various things are done, but are not normally expected to actually do them themselves and, therefore, need help from the project team.

35. Clients must make sure that there are reasonable management arrangements throughout the project to ensure that:
   - the construction work can be carried out reasonably safely; and
   - fixed workplaces (eg offices, shops, factories, schools) will be safe to use; and
   - there are suitable welfare facilities.

36. To help them develop these arrangements, for notifiable projects clients have to appoint:
   - a co-ordinator to advise them and assist with their duties – mainly in the design and planning stages; and
   - a principal contractor to manage the construction phase.

37. Getting the right people for these roles is particularly important for clients with little construction or health and safety expertise, as they need to be able to rely on their support and advice.

Who are clients?
Regulation 2

38. A client is an organisation or individual for whom a construction project is carried out, whether by others or in house. This can include, for example, local authorities, school governors, insurance companies and project originators on Private Finance Initiative (PFI) projects. Domestic clients are a special case and do not have duties under CDM2006.

Example 3

A developer funded improvements and alterations to the highway as a part of a major shopping development. The improvements and alterations had to satisfy the requirements of the highway authority.

In this case the developer engaged all the contractors, and was the only client, but the highway authority was still a designer.

12 Domestic clients have no legal duties under these Regulations. See paragraph 88.
39. In some circumstances it may not be immediately obvious who is legally the client and there can sometimes be more than one client involved in a project. To avoid confusion, this needs to be resolved by those involved at the earliest stage possible. Take into account who:

- ultimately decides what is to be constructed, where, when and by whom;
- commissions the design and construction work (the employer in contract terminology);
- initiates the work;
- is at the head of the procurement chain;
- engages the contractors.

40. If there is still doubt, then all of the possible clients can appoint one of them as the only client for the purposes of CDM2006. (See paragraph 50.)

**What clients must do**

41. Clients must always:

a) check that the designers, contractors and other team members that they propose to engage are competent, adequately resourced and appointed early enough for the work they have to do;

b) allow sufficient time for each stage of the project, from concept onwards;

c) ensure there are suitable communication and management arrangements for the whole project, from concept onwards. (This does not mean managing the work themselves, as few clients have the expertise and resources needed and it can cause confusion.) Designers and contractors should be able to advise for non-notifiable projects where no co-ordinator is required;

d) co-operate with their project team.

42. In the case of notifiable projects they must also:

a) appoint a co-ordinator right at the start of the design work to advise and assist them with their duties;

b) provide the co-ordinator with information:

- likely to be needed by designers, the principal contractor and other contractors to plan and manage their work; and
- about the mobilisation period;

c) ensure that HSE is notified, usually by the co-ordinator;

d) appoint a principal contractor to plan and manage the construction work – if possible early enough for them to advise on buildability and maintainability; and

e) ensure that the construction phase of notifiable projects does not start until:

- the principal contractor has prepared a suitable health and safety plan; and
- there are suitable welfare facilities;

f) make sure the health and safety file is reviewed, updated or prepared at the end of the construction work. This must then be kept available for any future construction work or to pass on to a new owner.

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13 See paragraph 24.
Draft guidance

Clients

43. If a client does not make these appointments they are legally liable for the work that the co-ordinator and principal contractor should do, as well as for not making the appointments.

44. **Clients can also, intentionally or unwittingly, take on additional responsibilities.** If they specify materials or methods of working they may well be liable as designers in relation to those specific matters. They will also legally be contractors, if they directly manage or carry out construction work. If so, it is important that they understand and fulfil such duties as set out in the remaining chapters and Schedules 2 and 3 of the Regulations.

**Management arrangements**

*Regulation 7*

45. Clients must make sure that there are suitable arrangements for managing projects so that the work can be carried out safely and without risk to health. These should address:
   a) their requirements about the way the project is to be run (eg fencing of the site, movement of vehicles or permit to work procedures) taking account of any risks to the public and the client’s or site occupier’s employees or customers;
   b) the resources, roles, functions and responsibilities of members of the project team, how they inter-relate and, where relevant, the timing of appointments;
   c) how communication, co-ordination and co-operation (eg between designers and contractors) will be facilitated and encouraged;
   d) how and when the design, elements of it and design changes, are to be reviewed to check that the requirements of regulation 14 have been addressed and that the different design elements work together. This is normally best addressed as part of a buildability, maintainability, usability review which addresses practicality and costs as well as health and safety;
   e) the format of the health and safety file (to ensure it is suitable for the client), how, when and by whom information is to be provided for it;
   f) how the project will be monitored (usually by the co-ordinator before construction starts and the principal contractor afterwards) and reviewed; and
   g) the interface with any other projects on the same or neighbouring sites.

46. The most important thing is that all key tasks are clearly allocated and everyone understands what they have to do, when and in what order. Key aspects of the arrangements should be recorded in the information pack – see paragraph 121 and appendix 2 – but they should be written simply, clearly, and concisely. For low risk projects (including most non-notifiable projects) a simple table that sets out who does what, is likely to be all that is needed.

47. In notifiable and higher-risk projects clients are likely to need help from someone with practical and health and safety expertise of such work to develop the arrangements. Co-ordinators should be able to do this work for clients. The gateway approach provides a useful framework – see appendix 4. Particular attention is needed where the project involves high-risk work like asbestos removal or demolition. (See paragraph 30.)

48. The arrangements may be included in other documents, for example the health and safety plan or contracts, but must not be obscured by other items. However it is done, all of the tasks must be appropriately and clearly allocated. (Further general guidance on health and safety management is provided in ‘Successful health and safety management’ HSG(65)).

49. In addition to their duties under CDM clients may also have duties under HSWA regarding the health and safety of their own employees, other workers or members of the public. They need to ensure that the management arrangements take account of such duties. The results of any monitoring can also provide good evidence of competency for any similar future projects.
Combining related projects

Regulation 6

50. Where there are several related projects with different clients (eg constructing and fitting out a shop) it can make management easier if they are combined and treated as a single project. The Regulations therefore allow several clients to agree to treat their joint projects as one, so that one of them will be treated as the only client from then on. But the other clients still have to ensure the competence of any of their own appointees, co-operate with others involved in the project and provide any relevant information.

Appointments – general

Regulations 4, 7 and 10(1)(d)

51. When appointing co-ordinators and principal contractors or engaging designers and contractors clients have to consider a wide range of factors including:
   - their competency to carry out the work to the necessary/required standards\textsuperscript{14};
   - the resources (eg staff, equipment and, particularly, time) needed to plan and do the work properly.

52. Clients must not take on these tasks themselves unless they are competent and have adequate resources, including time, to do so properly. This may be easy with simple projects, eg painting interior walls, which are only 2-3 metres high, using non-toxic paints. However, most construction work requires much more expertise in both health and safety and practical management.

53. Clients also need to consider the timing of their appointments to ensure that appointees:
   - have sufficient time to plan, prepare and mobilise; and
   - can contribute to developing designs and plans – eg designers and contractors can discuss designs to ensure that they are buildable and maintainable and contractors can be involved in developing the construction phase plan.

Appointment of the co-ordinator

(Notifiable projects only)

Regulations 4 and 8(1)

54. A client must appoint a competent (see paragraph 103), adequately resourced co-ordinator before the design work starts for high-risk and notifiable projects. This is a new role, which has been developed from that of the Planning Supervisor. It is intended to provide clients with an empowered health and safety advisor who is pivotal in ensuring an effective and cohesive project team. Their main purpose is to help clients to carry out their duties. Under the Management Regulations\textsuperscript{15}, clients must also appoint competent persons to assist them with their legal duties. The appointment of the co-ordinator is likely to fulfil this duty as well, as they should be able to advise the client on all of the construction related issues.

55. Clients must make sure that all of the co-ordinator’s tasks, as set out in regulation 13, are carried out properly.

56. Early appointment is crucial for effective planning and management arrangements to be established, implemented and monitored from the start. In addition, the greatest potential for improving health and safety is at the concept and scheme design stages. As a scheme moves into

\textsuperscript{14} These Regulations only require competence and resources in relation to health and safety, but clients’ concerns are much wider and it is more sensible to address this as part of the wider issue of competence and resources to do the work to the expected standards, eg quality and timescale.

\textsuperscript{15} Regulation 7(1)
the detailed design stage, it becomes more difficult to make fundamental changes that eliminate
hazards and reduce risks associated with early design decisions.

57. This is why CDM\textsuperscript{2006} requires co-ordinators to be appointed \textit{before design work, or planning
or other preparation for construction work is begun} to allow them to:

a) advise clients generally, but particularly on the competence and resources of their appointees;
b) notify HSE about the project;
c) ensure that design work (including that during the construction phase) and early planning is
properly co-ordinated;
d) develop effective management arrangements for the project;
e) locate the information needed for designers and contractors (the Information Pack) and advise
the client if surveys need to be commissioned to fill significant gaps;
f) advise the client on the suitability of the initial construction phase plan;
g) produce or update a relevant, user friendly, health and safety file suitable for future use at the
end of the construction phase.

58. There can be significant advantages in having a completely independent co-ordinator because
their advice is not coloured by other practical or financial interests. However, they may combine
this work with another role, for example, project manager, designer or principal contractor as long
as the co-ordinator is competent and has sufficient independence to carry out their tasks effectively.

59. More information on the duties of co-ordinators is contained in chapter 3.

\textbf{Arranging design work}

\textit{Regulations 4, 7 and 14}

60. Clients must employ only competent designers. (See
paragraph 148.) Clients often employ more than one
designer, for example architects, civil, structural and services
engineers. In such cases they all need to know who does
what and the timing of the appointments needs to enable the
design work to be co-ordinated from an early stage.

61. Nominating one designer as the ‘lead designer’ is often
the best way to ensure co-ordination and co-operation during
design work which involves a number of designers. This
‘lead designer’ may be appointed as a co-ordinator under
regulation 8, but the co-ordinator’s duties are wider than just
design co-ordination and suitable arrangements must be
made to carry out all of the co-ordinator’s tasks.

62. Clients who specify materials or methods of working may well be liable as designers in
relation to those specific matters. In addition where they employ designers who are based outside
Great Britain they are responsible for ensuring that the design complies with regulation 14. The
co-ordinator should be able to help.

63. More information on the duties of designers is contained in chapter 4.
Appointment of the principal contractor
(Notifiable projects only)

**Regulations 4, 8(2), 16 and 17**

64. Clients must appoint one competent, adequately resourced principal contractor to plan, manage and monitor the construction work. This can be an organisation or an individual and is usually the main or managing contractor. A principal contractor’s key duty is to manage the construction phase to ensure the health and safety of everybody affected by the work. The client’s arrangements and other appointees should not compromise the ability of the principal contractor to do this.

65. The principal contractor must be appointed as soon as the client knows enough about the project to select a suitable contractor. Early appointment allows the principal contractor, and indeed other specialist or maintenance contractors and facilities management experts to make a substantial contribution to ensuring the buildability and maintainability of a project. This helps, not only to eliminate and reduce risks to health and safety, but also to avoid interruptions, delays and other problems, which can add significantly to the whole life cost of a project.

66. Early appointment is also essential for the principal contractor to have sufficient time to develop an adequate construction phase health and safety plan and to arrange for appropriate resources, including welfare facilities, to be available when work commences on site. (Making sure that suitable welfare facilities are provided when work starts on site is a specific duty on both the client and principal contractor.)

67. **There can only be one principal contractor at any time** to ensure clear lines of management. To ensure continuity, clients should normally keep the same principal contractor for the whole project from site clearance and preparation to final completion. Exceptions to this include:

- preliminary works, eg involving demolition or site preparation work, where there is a substantial delay between site clearance and the start of new construction work;
- separate projects for different clients, eg for a building shell and subsequent fitting-out work.

68. More information on the duties of principal contractors is contained in chapter 5.

**Notifying HSE about appointments**
(Notifiable projects only)

**Regulation 9**

69. The client must make sure that HSE is notified of the project and appointments (usually by the co-ordinator) at the very start of the design work. The principal contractor’s details can be provided later, if necessary. Paragraph 24 provides further detail.

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16 See paragraph 183.
17 The whole life cost of a structure includes the cost of maintenance and use and is typically over 200 times the construction cost.
18 Regulations 11(b) and 16(1)(b)
Information

Regulation 10 and 13(2)

70. Clients must provide the project-specific information needed by designers and contractors to identify hazards, including those arising from previous work, site conditions, and activities on or near the site. This includes hazards that clients already know about or suspect, for example because they are covered in information already in the client’s possession. Clients must also provide information that can be obtained by making sensible enquiries, including surveys and other investigations when necessary. (In the case of notifiable projects, co-ordinators normally advise the client as to what is needed and arrange for relevant parts to be given to designers and contractors.)

71. Clients must not leave it to contractors to discover such hazards. The information provided, must be sufficient to ensure that significant risks during the work can be anticipated and planned for. It must be provided, as in the information pack, in time for designers and contractors to take account of them when preparing to bid for or plan their work. It must point out those issues that designers and contractors could not reasonably be expected to anticipate or identify, but not obvious hazards. Appendix 2 lists topics that need to be considered.

72. Clients who already have a health and safety file from earlier work under CDM 2006 or CDM 94, or have previously carried out surveys or assessments, including under the Control of Asbestos at Work Regulations 2002, may already have all, or much, of the information needed. However, they also need to ensure that contractors are provided with relevant information provided by designers under regulation 14(5). (Clients who do not have maintenance or repair responsibilities for the premises must obtain information about risks, due to any asbestos that may be present, from whoever has such responsibilities in the area affected by the planned work.)

73. Information about sites or existing structures, which will be needed when work begins, should be obtained as early as possible. Information about relevant underground services should be obtained from utility companies and other service owners. Where their exact location is crucial it is important to verify it with cable-location or other detection equipment. It is rarely necessary to locate services using trial excavations before work on site starts.

74. This information needs to be in a form that is convenient, ie clear, concise and easily understood, but it can be included in other documents, for example the specification, providing the relevant health and safety issues are fully covered.

75. Clients also have to tell principal contractors and contractors they choose themselves the minimum notice that they will be given before they are expected to start construction work. This is to ensure that they have sufficient time to plan and prepare – eg mobilise their workforce and equipment. (See also Regulation 7(2)(a)(ii) and (b)(iii).)

Example 7

A client proposed to build a new ferry terminal. The client informed the co-ordinator about the operation of the nearby liquefied petroleum gas terminal.

The design and health and safety plan took account of the potential impact of shipping operations on the construction project, and enabled risks to the LPG operations to be identified and minimised.

Example 8

A client was aware that there could be high levels of arsenic in the soil in their locality. He arranged for tests to be carried out and found significant levels.

The risk at such levels was made clear and the need to develop appropriate risk control measures was made clear in the co-ordinator’s information pack.
Planning the construction phase

Regulations 7(2) and 11

76. Proper planning of the whole project is essential for effective risk management. It makes delays or increased costs due to unforeseen problems far less likely, and helps identify measures to reduce the risk of injury. Planning and preparing for construction can require considerable work. Clients must allow adequate time and tell contractors the minimum notice they will be given to mobilise.

77. In the case of notifiable projects, clients must ensure both that suitable welfare facilities are provided and that the plan is set out in writing before the construction phase begins. Clients, usually through the co-ordinator, must ensure that the plan is suitable, project-specific and sets out:

- the framework for managing and monitoring health and safety standards on site, including the emergency procedures, arrangements for communications and provision of welfare facilities;
- the key health and safety issues for the early stages of the project.

78. CDM\textsuperscript{2006} only requires clients to ensure that there is a suitable plan before construction begins; they do not have to approve the plan. The co-ordinator normally advises on its suitability.

79. Once the construction phase has begun, neither clients nor co-ordinators have a duty, under CDM\textsuperscript{2006}, to check that the plan is updated; this is the responsibility of the principal contractor. However, the client has to ensure that there are appropriate monitoring arrangements; this is normally the responsibility of the principal contractor.

Completion and handover

80. One of the most important stages in a project is when it nears completion and is handed over to the client. It is rare for all construction work to be completed before handover. Sometimes clients, in their eagerness to have things up and running, assume control when a great deal of construction work remains.

81. It is also tempting to cut back on management resources at this stage. However, risks to employees and others not engaged in construction work can increase substantially as they visit the site or spend more time there. The risks to the construction workers can also increase, due to the presence and work of others not directly engaged or experienced in construction work.

82. To minimize such risks, the management of this phase needs to be considered well in advance of completion and handover to address:

- the nature, scope and duration of any finishing off work;
- how this work will be managed and by whom;
- how the site will be split up, and access controlled, to safeguard construction workers as well as clients’ employees and/or members of the public.

The health and safety file
(Notifiable projects only)

Regulation 12

83. The health and safety file (the file) is a source of information to reduce the risks and costs involved in future construction work including cleaning, maintenance, alterations, refurbishment and demolition. Clients therefore need to ensure that the file is available for inspection in the event of such work. It is a key part of the information which the client, or the client’s successor, must pass on to anyone preparing or carrying out work to which CDM\textsuperscript{2006} applies.
84. At the end of the construction phase, normally at practical completion, the file must be finalised and given to the client by the co-ordinator. In some cases, for example where there is partial occupation or phased handover of a project it may be needed earlier to inform other work. For this to happen, clients need to make appropriate arrangements at the beginning of the project to collect and compile the information that is likely to be needed for the file as work progresses. Clients also need to agree the timing and a suitable, user-friendly format with the co-ordinator.

85. The file can provide significant benefits to the client by minimising the cost of future work. It is therefore well worth the effort to ensure it is kept up to date, even when work not subject to CDM2006 is carried out. There is further information about the file and its contents in chapter 10.

**Particular types of clients**

**PFI, PPP and similar forms of procurement**

86. Difficulties can arise if management of the project and design issues are not addressed during the early stages of PFI / PPP projects. By the time a contract is awarded, addressing them is likely to be ineffective and expensive. Because of the wide variety of projects and approaches adopted it is difficult to provide definitive guidance, but HSE believes the following principles should be applied:

   a) The Government is committed to act as an exemplar in matters of health and safety.

   b) The project initiator\(^{21}\) should ensure that effective arrangements for the management of the project are implemented, from project concept, so that:

      o all those with an influence on health and safety exercise that influence responsibly;

      o a co-ordinator is appointed before design work begins – including development of the specification, where relevant; and

      o developing designs address health and safety issues from concept stage – even where there is no commitment to a particular design.

   c) The role and responsibilities of the client can transfer from one party to another as the project proceeds. (This is normally the case when the Special Purpose Vehicle (SPV) is appointed or when a preferred bidder is appointed with full responsibility for the specification and delivery of a project.) Any such transfer must:

      o be clear to, and agreed by, all those involved;

      o clearly recorded;

      o provide the practical authority and control needed to discharge the client’s duties.

   d) Even after such a transfer the project initiator will:

      o pass on any relevant information in their possession;

      o exercise any remaining contractual control responsibly;

      o co-operate with others involved in the project.

87. Project originators are legally the client at the start and must take the initiative\(^{22}\). Because the co-ordinator has to be appointed and HSE notified before design work starts, this normally falls to the project originator, as does responsibility for setting out the management arrangements. The project originator cannot wait until someone else, eg the SPV, takes over.

**Work done for domestic clients**

88. Domestic clients are people who have work done on their own home, or the home of a family member that does not relate to their trade, or business. It is the type of client that matters, not the

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21 Normally a public body, eg a government department, local authority or health authority.

22 If the project only involves the provision of a service and does not explicitly require construction, the SPV or tenderer proposing a solution including construction is legally be the client from the outset.
type of property. Local authorities, housing associations, charities, landlords and other businesses may own domestic property, but they are not domestic clients. If the work involves a business attached to domestic premises, such as a shop, the client is not a domestic client.

89. Domestic clients have no duties under CDM2006. Co-ordinators and principal contractors don’t have to be appointed or health and safety plans or files produced on projects for such clients. Sometimes groups, who would otherwise be domestic clients, form companies to administer construction work. A common example of this is a company formed by leaseholders of flats to undertake maintenance of the common structure. In such a case, the company is a client with a client’s duties.

Is work done for a domestic client exempt?

90. No! Work for domestic clients is not exempt from CDM2006. Designers and contractors still have their normal duties. Only the client is exempt.

91. Designers and contractors working for domestic clients have to manage their own work and co-operate with the others to safeguard the health and safety of all involved in the project. They cannot assume that their client will manage it properly or provide suitable work equipment, eg if they borrow the client’s ladders. The requirements in Schedules 2 and 3 and other health and safety law still apply. Appendix 5 lists some of the most relevant requirements.

Insurance and warranty claims

92. An insurance company arranging for construction work to be carried out under the terms of an insurance policy is the client for the purposes of CDM2006. However, where the insured arranges the work and the insurance company reimburses them the insured is the client.

93. If the insurer specifies designers or contractors for certain aspects of the work, then they are responsible for establishing that they are competent. Chapter 7 provides more information on how to do this.

94. It is common, with insurance-related work, for agents to be appointed to act on behalf of either the insured or insurer. These agents resolve claims and may co-ordinate the remedial works. Such agents may legally be clients with all the relevant duties.

95. Where remedial work is carried out under a home warranty scheme, such as those provided by the National House Building Council (NHBC), it is the provider of the warranty, eg NHBC, which is the client for the purposes of CDM2006.

Developers

96. In some instances, domestic clients may buy a house or flat before the whole project is complete, for example where house builders develop a site with a view to selling a number of homes. In such cases the purchaser may have an interest in the property, but it is still the developer who arranges for the construction work and is legally the client.

97. Builder-developers are often both client and principal contractor, although they may appoint another contractor as principal contractor. They may also be a designer or co-ordinator. They must comply with CDM2006 in all their roles.

What clients don’t have to do

98. Clients are not required or expected to plan or manage construction work themselves.
Draft guidance

Chapter 3. The co-ordinator

(Notifiable projects only)

99. The role of co-ordinator has been developed from that of the Planning Supervisor. It is intended to provide the client with an empowered and key health and safety advisor who is pivotal in ensuring an effective and cohesive project team. Through early involvement with clients and designers a co-ordinator can make a significant contribution to reducing risks to workers during construction, and to contractors and end users of the structure, after construction.

100. Health and safety needs to be integrated into everyday management of the project – it is not a bolt-on. Appropriate time and effort invested in design and early planning will reap dividends in health and safety, whole life value (total cost of ownership) as well as improved management of the project, and increased likelihood of completing to time, cost and quality.

101. As the name indicates, a key role is to ensure that, during the design and planning stages, the work of all parts of the team is well co-ordinated, as far as health and safety is concerned and that everyone co-operates. During the construction phase they co-ordinate ongoing design work, and its implications for the construction phase plan, and preparation of the health and safety file.

102. A co-ordinator must be appointed before any design work starts, to assist and advise the client and ensure the project is set up properly. The co-ordinator can be an individual or a company. The tasks can be shared out, but this can make liaison and continuity difficult to achieve unless it is done very carefully.

Competence

Regulation 4

103. Co-ordinators need good interpersonal skills and a sound working knowledge of:

- health and safety in construction work;
- the design process;
- other aspects of planning and preparing for construction work, and
- site processes relevant to the project and future maintenance, refurbishment or demolition. The size and complexity of the project determines whether an individual is capable, and has the resources to carry out all of the work required. Chapter 7 contains further advice concerning competence.

104. Co-ordinators are not necessarily designers, and do not have to undertake any design work themselves. But in order to assess the health and safety implications, they must have sufficient knowledge of the design process to enable them to hold meaningful discussions with designers, and participate fully in relevant design team meetings.

105. Co-ordinators can’t discharge their role effectively without the client’s support. For that reason they often need an understanding of relevant aspects of the client’s business and the implications of the proposed work for it. They need to make sure that clients understand their own role and duties as well as the benefits of good management of the project and early appointments. Co-ordinators also need to explain how they can help the client in these areas and agree exactly what their functions will be. This will depend on the nature of the project and experience and resources the client has to carry out some of the work in house, but clients must ensure that a competent person carries out all of the duties listed in Regulation 13(1).

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106. Co-ordinators need the co-operation of all the other parties involved in the project, especially
the designers. Although there is a legal duty on everyone involved in the project to co-operate, the
skill of a co-ordinator is to encourage willing co-operation. Without it, good working relationships,
clear communication and sharing of relevant information will not happen and health and safety and,
of course, the whole project will suffer. An over-bureaucratic approach is to be avoided, not least
because it makes it harder to gain such co-operation.

What co-ordinators must do
Regulation 8(1) and 13
107. Co-ordinators must:
   a) advise and assist clients with their duties;
   b) co-ordinate design work, planning and other preparation for construction, where relevant to
      health and safety;
   c) liaise with the principal contractor about design developments during the construction phase
      that are likely to have implications for health and safety and the construction phase plan.
      Such reviews must not interfere with the principal contractor’s duty to plan and manage work
      on site;
   d) manage the flow of health and safety information between clients, designers and contractors.
      This includes locating existing information or advising the client how to fill significant gaps,
      eg by commissioning surveys; and
   e) produce or update a relevant, user friendly, health and safety file suitable for future use at the
      end of the construction phase.

108. In addition, to deliver more effective health and safety risk management, they also normally:
   a) advise clients on the competence and resources of their appointees;
   b) notify HSE about the project on behalf of the client;
   c) develop effective management arrangements for the project and review and revise them;
   d) carry out early planning and, sometimes, preparation for the construction work; and
   e) advise the client on the suitability of the construction phase plan (for the initial construction
      work) and welfare facilities before construction work starts.

Monitoring
Regulation 7(2)(b)(iv)
109. Monitoring is an essential part of the planning and management arrangements. The
co-ordinator’s particular involvement is likely to include:
   a) calling design and wider team meetings as required;
   b) checking the suitability of information prepared by designers for contractors;
   c) checking the flow of information forming the health and safety file.

Co-ordinators and the design
Regulation 7(2) 13(2) and 15
110. Co-ordinators need to ensure that the client’s management arrangements include the review
of designs. This is the case even if the designer is based overseas or not available to discuss the
issues. Where a number of designers are involved, co-ordinators also need to take reasonable steps
to ensure that:
   • design work is co-ordinated, so that:
     o design elements and designers assumptions are compatible;
     o all significant design issues are addressed;
   • and designers work together to address health and safety implications of the designs, and to
     ensure that any problems are resolved.
111. The co-ordinator’s legal responsibility only extends to health and safety aspects of the design review – checking that the requirements of regulation 14 have been addressed and that the different design elements work together. However, the benefit of design reviews is likely to be greater and more obvious if health and safety is addressed alongside practicality and cost in a wider review of the design’s buildability, maintainability and usability. If there is a separate lead designer then the co-ordinator needs to agree the review process and their respective roles.

112. To be really effective, the review must draw together those with responsibility for the design, those who will construct or maintain it and, often, users and facilities management experts. (Even if the actual people, eg maintenance contractors, haven’t been appointed at the time of the review, it is still useful to involve those with such expertise. They can often identify simple design changes that could make construction and maintenance easier, cheaper and safer.)

113. As part of design reviews, co-ordinators need to ensure that designs include the information needed by other designers and contractors (paragraph 169). This information needs to be clear and concise.

114. The timing of the reviews also needs to be considered. Design needs to be far enough on for people to have a clear view of what is in mind, but not so far on that it is too late to modify the proposals, if necessary. Design is an iterative process so it may need review at several different stages. As always the effort devoted to design review should be in proportion to the risks and complexity.

115. Co-ordinators who identify important health and safety issues that have not been addressed in a design must draw them to the attention of the designer.

### Preparation for construction

116. Much can be done before construction actually starts to speed it up and make it safer. The co-ordinator should be able to do, or arrange such work. It may include:

- obtaining drawings from the utilities of relevant underground services, verifying and marking them out;
- arranging for water, electricity, sewage and other services to be provided to the site.

### The co-ordinator’s role during the construction phase

117. Design continues throughout a project and co-ordinators have a continuing role during the construction phase – ensuring that designers, including those engaged by a contractor and contractors who carry out design work themselves, co-operate with each other, and designs meet the requirements of the Regulations. Where design changes and decisions during the construction phase have significant health and safety implications, co-ordinators must liaise with the principal contractor about any implications for the construction phase plan.

118. The design of temporary works, such as falsework, formwork and scaffolding, falls within the scope of CDM2006. Co-ordinators have to take reasonable steps to ensure co-operation between permanent and temporary works designers, in particular to ensure that the designs are compatible and that the permanent works can support any loadings from temporary works.

119. Co-ordinators need to pay particular attention to late designs or changes to designs, for example revisions on architects’ instructions, when clients require changes or when unforeseen problems are encountered on site, to ensure that they do not result in significantly increased risks.

120. Hurriedly produced solutions to problems or other last minute changes can have tragic consequences if the implications are not identified and thought through. Co-ordinators need to
Draft guidance

Co-ordinators

ensure that the management procedures allow low-risk design developments and alterations to be handled with minimal bureaucracy. However, design work, which is more complex and likely to involve greater risks usually needs to be discussed between the designers and contractors. An integrated team provides an excellent framework for such discussions.

Managing information flow

Regulations 10 and 13(2)

121. The co-ordinator must identify and extract the information needed by designers and contractors, but actually providing it is the client’s responsibility. Co-ordinators also normally manage the flow of information between the team members. They need to determine and assemble the information needed by designers and contractors in sufficient time for them to decide what resources (including time) are required for their work and to plan and carry it out safely and without risk to health. This includes project specific information:

   a) from a prior health and safety file;
   b) which can reasonably be obtained from surveys and other sources including under the Control of Asbestos at Work Regulations 2002;
   c) from earlier design work;
   d) any client arrangements, deadlines or requirements which have significant implications for health and safety; and
   e) the minimum period to be allowed between notice of mobilisation and start on site.

122. This information helps the co-ordinator to assess the competence and resources required by members of the project team that have still to be appointed and to advise the client accordingly.

123. Once they have received this information, co-ordinators must weed out irrelevant material and assemble the information that designers and contractors need in a clear and comprehensible format. This must be sent out in time for them to take account of it in determining the resources (including time) required for the work and in designing and planning. This information is often provided as part of the tendering process, in which case responses to the issues identified can be a real help when judging competence.

124. For convenience this information is called the Information Pack, but different people need different information at different times. Communicating this information properly is what counts, not assembling it in a particular format. The information which people need is basically the same as that previously included in the pre-tender health and safety plan (see Appendix 2 for more detail).
Provision of information

Co-ordinator identifies information required and asks client for it

Client provides information

Is the information sufficient?

Yes

Co-ordinator reviews information

Co-ordinator provides relevant information to designers

Designers provide information needed by contractors

Principal contractor prepares the construction phase health and safety plan using the information provided

Is the plan good enough for work to start?

Yes

No

Review and revise plan

Is the plan good enough for work to start?

No

Yes

New/revised health and safety file

Provide information for health and safety file

Feedback loop

PC develops/ revises plan

PC monitors implementation and development of plan

PC provides relevant parts of plan and information to contractors

This needs to be a 2 way process. Contractors need information from the info pack to do outline planning. Their outline plans/risk assessments are then an input into the Principal Contractor's planning process.

This is a joint decision by the client (with the advice of the co-ordinator) and Principal Contractor. Both need to be satisfied to proceed.

Co-ordinator provides relevant information to prospective principal contractors and contractors appointed by client

Contractor input to plan including risk assessments

PC provides relevant parts of plan and information to contractors

PC monitors implementation and development of plan

PC develops/ revises plan

Existing health and safety file (if any)

Asbestos and other survey reports, etc.

Decision by client and co-ordinator, with input from other team members, as appropriate

Yes

Client commissions additional surveys, etc

No

Client provides information

Provision of information

Existing health and safety file (if any)

Asbestos and other survey reports, etc.

Decision by client and co-ordinator, with input from other team members, as appropriate

Yes

Client commissions additional surveys, etc

No
Health and safety file

Regulations 12 and 13

125. Co-ordinators must ensure that a suitable health and safety file is prepared or updated – if one already exists. It is important that they discuss this with the client and agree its format and who has to provide what information, when. This requires the co-operation of several dutyholders so co-ordinators need to make sure that designers and contractors know, early on, what they will have to provide.

126. Clients may need to provide incentives or include requirements in contracts to ensure that the information is given to the co-ordinator immediately after relevant design or construction work is completed. At the end of a project the co-ordinator gives the completed file to the client for safekeeping. (Chapter 10 and paragraph 270 provide more information on the health and safety file.)

Co-operation and co-ordination

Regulations 5, 7(2)(b)(iii), (vi) and 13(1)(d)

127. Co-operation and co-ordination can only be achieved if there is good communication between all parties involved in a particular aspect of a project. The co-ordinator needs to make sure that there are appropriate systems in place to encourage communication and the sharing of relevant information. This cannot usually be achieved without visiting the site or meeting designers and other team members. The principal contractor has a similar role during the construction phase.

128. A good way to stimulate co-operation and co-ordination, while simultaneously improving the focus of all parties on hazard identification and risk management, is the development of a project risk register. (See appendix 3.) The obvious person to lead the development of the register is the co-ordinator. A well focussed register:

- summarises the key risks that need to be addressed in design and planning;
- allocates responsibility for addressing the risks; and
- provides a framework for developing the information pack and the health and safety file.

129. Co-ordinators may need to convene special meetings if they are not satisfied there is sufficient co-operation between designers or with other team members or if adequate regard is not being given to health and safety. It is, however, generally preferable for these issues to be addressed in other routine project meetings.

What co-ordinators don't have to do

130. Co-ordinators don’t have to:

a) approve the appointment of designers, principal contractors or contractors, although they normally advise clients about competence and resources;

b) approve or check designs, although they have to be satisfied that the design process addresses the need to eliminate and control risks;

c) approve the principal contractor’s construction phase health and safety plan, although they have to be able to advise clients on its adequacy at the start of construction;

d) supervise the principal contractor’s implementation of the construction phase health and safety plan; or

e) supervise or monitor construction work – this is the responsibility of the principal contractor and blurring or undermining this management role can be harmful

f) co-ordinate anything, except regarding health and safety. (In practice this distinction can be very blurred and it is hard, and often pointless, to draw hard and fast demarcation lines. What matters is that someone with enough time and expertise addresses all the important issues.)
Chapter 4. Designers

131. Designers are in a unique position to reduce the risks that arise during construction work, and have a key role to play in CDM 2006. Designs develop from initial concepts through to a detailed specification, often involving different teams and people at various stages. At each stage, designers from all disciplines can make a significant contribution by identifying and eliminating hazards, and reducing likely risks from hazards where elimination is not possible.

132. Designers’ earliest decisions fundamentally affect construction health and safety. These decisions influence later design choices, and considerable work may be required if it is necessary to unravel earlier decisions. It is therefore vital to address health and safety from the very start.

133. Designers’ responsibilities extend beyond the construction phase of a project. They also need to consider the health and safety of those who will maintain, repair, clean, refurbish and eventually remove or demolish all or part of a structure as well as the health and safety of users of workplaces. Failure to address these issues adequately at the design stage may make it difficult to devise a safe system of work and cause additional costs because, for example, expensive scaffolding or other access equipment is needed.

134. Designers have to weigh many factors as they prepare their designs. This chapter focuses on those that have health and safety implications. These have to be weighed alongside other considerations, including cost, fitness for purpose, aesthetics, buildability, maintainability and environmental impact. CDM 2006 allow designers to take due account of other relevant design considerations. CDM does not prescribe design outcomes, nor is this a mechanistic process. Instead designers have to weigh the various factors and reach reasoned, professional decisions.

135. Designers must reduce foreseeable risks to health and safety, based on the information available when the design is prepared or modified. The greater the risk, the greater the weight that must be given to eliminating or reducing it. Designers must not produce designs that cannot be constructed or maintained in reasonable safety and should be able to demonstrate a safe method of construction for their designs.

136. Where significant risks remain when they have done what they can, designers must provide the information needed to ensure that the co-ordinator, other designers and contractors are aware of them and can take account of them. (See paragraph 169.)

Who are designers?

Regulation 2

137. In CDM 2006 the term ‘designer’ has a broad meaning. Designers are those who have a trade or a business which involves them in:

a) preparing designs for construction work, including variations. This includes preparing drawings, design details, specifications, bills of quantities and the specification (or prohibition) of articles and substances, as well as all the related analysis, calculations, and preparatory work; or

b) arranging for their employees or other people under their control to prepare designs relating to a structure or part of a structure.

It does not matter whether the design is recorded (eg on paper or a computer) or not (eg it is only communicated verbally).
Draft guidance

138. Designers therefore include:
   a) architects, civil and structural engineers, building surveyors, landscape architects, other
      consultants, manufacturers and design practices (of whatever discipline) contributing to, or
      having overall responsibility for, any part of the design, for example drainage engineers
      designing the drainage for a new development;
   b) anyone who specifies or alters a design, or who specifies the use of a particular method of
      work or material, such as a design manager, quantity surveyor who insists on specific material
      or a client who stipulates a particular layout for a new building;
   c) building service designers, engineering practices or others designing plant which forms part of
      the permanent structure (including lifts, heating, ventilation and electrical systems), for
      example a specialist provider of permanent fire extinguishing installations;
   d) those purchasing materials where the choice has been left open, for example those purchasing
      building blocks and so deciding the weights that bricklayers must handle;
   e) contractors carrying out design work as part of their contribution to a project, such as an
      engineering contractor providing design, procurement and construction management services;
   f) temporary works engineers, including those designing auxiliary structures, such as formwork,
      formwork, falsework, façade retention schemes, scaffolding, and sheet piling;
   g) interior designers, including shop-fitters who also develop the design;
   h) heritage organisations who specify how work is to be done in detail, for example providing
      detailed requirements to stabilise existing structures; and
   i) those determining how buildings and structures are altered, eg during refurbishment, where
      this has the potential for partial or complete collapse.

139. Designers are accountable for the health and safety implications of their own design decisions
    on others. They are not accountable23 for the designs and decisions of other designers, unless such
    designers work within their practice or under their control. Clients, with the assistance of the co-
    ordinator, should make clear who does what, but if they don’t, it should be discussed with the lead
    designer or co-ordinator.

140. Demolition often involves design work – eg temporary works and pre-weakening of
    structures. However, the main focus should be on planning and managing the work and the relevant
    duties on principal contractors and other contractors.

141. Local authority or government officials may provide advice relating to designs and relevant
    statutory requirements, eg building regulations, but this does not make them designers. However, if
    they require that particular features are included or excluded (eg stipulating hazardous substances or
    the absence of edge protection on flat roofs) then they are designers and must ensure that they
    comply with these Regulations.

**What designers must do**

*Regulations 4, 5 and 14*

142. Designers must:
   a) make sure that they are competent to address the health and safety issues likely to be involved
      in the design;
   b) check that clients are aware of their duties; ensure that, for **notifiable projects**, the client has
      appointed a co-ordinator and notified HSE and must not start design work unless they have;
   c) prepare designs with adequate regard to health and safety, and the information supplied by the
      client, taking into account interfaces with other design elements;

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23 Except that, like everyone else involved in a project, regulation 6(2) means that designers have to point out any
   serious risks they identify to the lead designer, co-ordinator, principal contractor or client, as appropriate.
d) provide adequate information in or with the design;
e) co-operate with the co-ordinator, principal contractor and with any other designers or contractors as necessary for each them to comply with their duties. This includes providing any information needed for the information pack or health and safety file.

143. Under CDM\textsuperscript{2006}, designers must ensure that any designs they prepare for the purposes of construction work, avoid risks to anybody:
   a) carrying out construction work;
   b) cleaning or maintaining the permanent fixtures and fittings;
   c) using a structure designed as a place of work;
   d) demolishing or part of the structure; or
   e) who may be affected by such work, for example customers or the general public.

144. Designers also have duties under other legislation, including section 3 of HSWA and the Management Regulations. Compliance with regulation 14 of CDM\textsuperscript{2006}, as set out in this Chapter, will also ensure compliance with regulation 3(1), (2) and (6) of the Management Regulations in respect of risks to those constructing the design. Designers still need to consider the implications of building regulations and fire safety requirements, as well as any duties on occupiers for completed structures.

145. Guidance on designers’ duties under regulation 14 is provided in this Chapter, but designers who sub-contract design work or appoint contractors also have duties under other regulations. This includes the competence of designers or contractors that they engage. Guidance on these issues is in chapter 7.

When do these duties apply?

Regulation 14(3)

146. These duties apply whenever designs are prepared which may be used in construction work in the United Kingdom\textsuperscript{24}. This includes designs prepared to obtain estimates or tenders, bid for grants and initial or outline design. It does not matter whether or not planning permission or funds have been secured; the project is notifiable or high-risk; or the client is a domestic client.

147. Designers’ duties extend to modifications to designs. These need to be properly managed. Hurriedly produced solutions to problems or other last minute changes can have tragic consequences if the implications are not identified and thought through.

Competence

Regulation 4

148. All designers must be competent\textsuperscript{25} to comply with their duties under these Regulations. This means that they must be able to:
   a) identify hazards inherent in their designs and understand how they can be eliminated or the risks likely to be faced during construction or maintenance can be reduced;

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\textsuperscript{24} England, Northern Ireland, Scotland and Wales.
\textsuperscript{25} See also chapter 7.
b) design workplaces (eg factories, offices, schools) to comply with other health and safety requirements – particularly the Workplace Regulations 1992;
c) identify remaining risks during construction, maintenance or demolition;
d) communicate information about these risks needed by contractors to comply with their duties;
e) comply with the management arrangements established for the project;
f) co-operate with the co-ordinator and the principal contractor.

149. To do this, designers need to understand how their design structure can be constructed, cleaned and maintained safely. The Safety in Design website (www.safetyindesign.org/) provides benchmarked standards for knowledge and competence for designers. The Construction Confederation also provides guidance on this www.thecc.org.uk/downloads/PreQualFlyerPDF.pdf.

150. Best practice designers have:

- a clear policy endorsed at board level on the management of health and safety;
- an established programme for health and safety training and Continuing Professional Development;
- a system to demonstrate that design staff have a good understanding of the construction process and a working knowledge of key health and safety guidance;
- hazard and risk information in their practice library concerning products regularly used or specified;
- established systems for design risk reviews at key stages of the design process;\(^\text{26}\)
- lists of products and processes (eg green / amber / red) which they wish to encourage / discourage or even ban from their designs and specifications.

### Think health & safety at:

- Overall concept
- Temporary/permanent works
- Detail design
- Construction sequence/method
- Materials to be used
- Workplace use (and abuse!)
- Requirements upon the construction team

**ie ALWAYS**

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\(^\text{26}\) This review may include normal checking of safety critical aspects of designs and verification of critical design assumptions – eg where the safety of supports relies on particular design assumptions about ground conditions. (See also paragraphs 45(d) and 110.)
Designing for health and safety

Design Concept

Identify hazards

Can hazard be eliminated?

Reduce risks as far as you can

Is that all the hazards?

Can it be constructed, maintained, used and demolished safely?

Information needed by other designers, contractors and for health and safety file

hazard = element or feature leading to risk

Don’t worry about trivia. Focus on issues raised in paragraph xxx and following.

This is about the changes that you can make as a designer, not what contractors have to do.

This is a matter for your professional judgement, in consultation with the co-ordinator and other designers, and contractors.

Don’t tell contractors the obvious! The best way to find out what they need to know is to ask them!

If someone is likely to get killed or badly hurt you must find another way

This takes account of the impact on the design as well as health and safety.
152. In other cases designers should draw the client’s attention to the need to appoint a co-ordinator before design work begins. This Document, in particular chapters 1 and 2, the HSE information sheet for clients\(^{27}\) and the leaflet produced by the Construction Clients Group (CCG)\(^{28}\) may also be helpful. This duty is aimed at the designer who has the initial or main contact with the client. Other designers need take no action unless they have reason to suspect that clients are not aware of their duties.

### Preparing a design

*Regulation 14(2), (3) and (4)*

153. Designers must critically assess their design proposals at an early stage, and then throughout the design process, to ensure that health and safety issues are identified, integrated into the overall design process and addressed as they go. **It is pointless to complete the design and then do a risk assessment.** By then, all of the key decisions are likely to have been taken and no one will be willing to make any changes because of the time and cost involved.

154. The first thing that designers have to do is to eliminate hazards – things which might result in injury or ill health – from their designs. Design decisions, features and specified articles, substances, plant and machinery introduce these hazards. Eliminating them completely removes the associated risk. This is therefore the best option and should always be the first choice. However, it is not always practical and it is pointless to design out one hazard, only to introduce others that increase the overall risk.

155. Where hazards can’t be eliminated completely designers must take appropriate action, in the design, to limit the likely risk by reducing the:

- likelihood of harm (injury or adverse health effect);
- potential severity of the harm;
- number of people exposed to harm; and
- frequency or duration of exposure to harm during the construction phase.

156. **The priority given to eliminating hazards and reducing risks depends on the degree of risk,** and must be performed so far as is reasonably practicable, taking due account of other relevant design considerations\(^{29}\). If, however, a hazard can be easily eliminated, without adverse consequences to the design, it should be eliminated even if the reduction in risk is marginal.

157. In most cases it is sufficient to approach this using experience and published guidance, without sophisticated risk analysis techniques. There is little to be gained by detailed comparison of construction techniques that present similar risks, for example whether to specify a steel frame or concrete portal building. The focus should be on issues that are known to have the potential to reduce risks significantly and those which reduce the risks to everyone exposed.

158. Finally, designers must provide the information necessary to identify and manage the remaining risks. **This must be project specific. Generic risk information is pointless.**

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\(^{27}\) This can be obtained from [www.hse.gov.uk/](http://www.hse.gov.uk/)

\(^{28}\) This can be obtained from [not written yet!]

\(^{29}\) See paragraph 134.
159. Designers also need to design fixed workplaces (eg factories, offices, schools) to comply with other health and safety requirements – mainly the Workplace Regulations 1992. This includes taking account of risks during the use of the workplace, private roadways and pedestrian routes, or cleaning or maintenance of permanent fixtures and fittings arising from their design.

160. The best way to identify and address risks during construction, maintenance and demolition is to involve all those with key roles in the design process from the outset of the project. This helps designers to identify and take account of likely construction processes for their design. A risk register provides a useful framework for this process as it draws on the expertise of the whole team and allows issues of buildability and maintainability to be addressed at the same time. The co-ordinator is in a good position to lead in the development of the register.

161. Good design practice, as set out above and taken with the following practical suggestions, will not only reduce the risks that people face, but can also deliver substantial cost savings through reduced construction and maintenance costs throughout the lifetime of the structure.

162. At the end of this process the design must be one that can be constructed safely. Significant risks of death or serious personal injury, including to health, are not acceptable on any grounds. A team approach, taking advantage of the practical knowledge that contractors and others have, helps to make sure designs are safe and efficient to construct.

163. For temporary works ‘standard’ design solutions that comply with recognised codes of practice, eg for scaffolding or falsework, are often used. Such solutions are normally satisfactory. However, where such solutions are adapted the designer needs to consider carefully whether the risk is still effectively controlled.

164. A range of practical guidance on risk reduction for designers is available; some examples are listed in appendix 6.

**What designers can do.**

165. This section identifies some areas over which designers have direct influence. They cover construction as well as future maintenance and cleaning requirements. This is not an exhaustive list, nor is each item relevant to every project. Designers should, where possible:

   a) select the position and design of structures to avoid risks from site hazards;
   b) design out health hazards by specifying less hazardous materials and avoiding processes that create hazardous fumes, vapours, dust, noise or vibration;
   c) specify materials that are easy to handle, or design to facilitate mechanical handling;
   d) design so that permanent access equipment is installed early and can be used during construction;
   e) **not** specify flat roofs without edge protection, fragile roofing materials, deep or long excavations, or materials that create a significant fire risk;
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f) use prefabrication to minimise hazardous work, or to allow it to be carried out in more controlled conditions off-site; and

g) design to aid safe construction, eg by providing:
   o anchorage points for scaffolding, nets or fall arrest systems;
   o lifting points and marking the weight, and centre of gravity of heavy or awkward items;
   o joints in vertical structural steel members that can be bolted easily by someone standing on a permanent floor, and for horizontal members by the use of seating angles to provide support while the bolts are put in place.

166. Design to make future maintenance and cleaning work, safer by:

   a) eliminating the need to work at height, eg by:
      o specifying windows that can be cleaned from the inside;
      o specifying low maintenance products, eg those that don’t need painting;

   b) designing in safe permanent access, eg for:
      o design plant rooms to allow safe access to and around plant, not forgetting its removal and replacement;
      o roof-mounted plant, and roof maintenance;
      o painting and maintenance of facades;

   c) allowing for safe temporary access to fixtures and fittings, eg ventilation ducts and lighting fixtures. Eg locate them where temporary access equipment can be used safely, not where this is difficult –such as above stairs.

167. Designers need to understand how their design can be constructed, cleaned and maintained safely. This involves:

   a) taking full account of the risks that can arise during the proposed construction processes, giving particular attention to new or unfamiliar processes, and to those that may place large numbers of people at risk;

   b) considering the stability of partially erected structures and, where necessary, providing information to show maximum erection loads and how temporary stability could be achieved during construction;

   c) considering the effect of proposed work on the integrity of existing structures, particularly during refurbishment and where foundations are to be dug close to existing buildings;

   d) ensuring that the overall design takes full account of any temporary works, for example space and structural support for falsework, which may be needed, no matter who is to develop those works;

   e) ensuring that there are suitable arrangements (for example access and hard standing) for cranes, and other heavy equipment, if required.

168. Occupied buildings or sites and refurbishment present special risks that can often be avoided or reduced if the issues are identified and addressed at the design stage. Work such as underpinning and creating openings can...
threaten the stability of structures by substantially weakening them or because of faults in the original construction, or subsequent work.

Providing information

*Regulation 14(5)*

169. Designers must provide adequate information about aspects of the design of a structure, its construction or maintenance needed by contractors and other designers. They should include key assumptions about working methods or precautions. This information forms part of the information pack[^30]. Designers also need to provide information about aspects of the design that could create risks during future construction work or maintenance for the health and safety file. If in doubt about the level of information needed, the best way to find out is to ask those who will use it.

170. **Designers must provide information about significant hazards; not spell out all hazards and assumptions.** Significant issues must be flagged up, not obscured. To know what is significant designers must understand how their design can be built. **Significant hazards are not necessarily those that involve the greatest risks, but those, including health risks that are:**

- not likely to be obvious to a competent contractor or other designers;
- unusual; or
- likely to be difficult to manage effectively.

171. **Designers always need to provide information regarding,** for example:

a) hazards that could cause multiple fatalities to the public, such as tunnelling, or the use of a crane close to a busy public place, major road or railway;

b) temporary works, required to ensure stability during the construction, alteration or demolition of the whole or any part of the structure, eg bracing during construction of steel or concrete frame buildings or removal of critical load-bearing components;

c) hazardous or flammable substances specified in the design, eg epoxy grouts, fungicidal paints, or those containing isocyanates;

d) features of the design and sequences of assembly or disassembly that are crucial to safe working. This includes hazards during demolition, for example:
   - sources of substantial stored energy, including pre- or post-tensioned members;
   - unusual stability concepts;
   - alterations that have changed the structure;

e) specific problems and possible solutions, for example features provided to enable the removal of a large item of plant from the basement of a building;

f) structures that create particular access problems, such as domed glass structures;

g) heavy or awkward prefabricated elements likely to create risks in handling; and

h) areas needing access where normal methods of tying scaffolds may not be feasible, such as facades that have no opening windows and cannot be drilled.

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[^30]: See paragraph 121.
172. **Information should be brief, clear, precise**, and in a form suitable for the users. This can be achieved using:

- **notes on drawings** — this is preferred, since the notes have to be brief and are immediately available to those carrying out the work. They can refer to other documents if more detail is needed, and be annotated to keep them up to date;
- **a risk register** – see appendix 3;
- **suggested construction sequences** showing how the design could be erected safely, where this is not obvious, for example suggested sequences for putting up stressed skin roofs. Contractors may then adopt this method or develop their own approach.

173. It may be useful to split this information into two parts, depending on whether it is relevant to:

- other designers and contractors in the short term; or
- future maintenance and construction work and so required for the health and safety file.

### Co-operation

**Regulation 5**

174. Designers must co-operate with the client, co-ordinator, other designers and contractors, including those designing temporary works. This is to ensure incompatibilities between designs are identified and resolved as early as possible, and that the right information is provided for the information pack and health and safety file.

175. Co-operation can be encouraged by:

- setting up an integrated team involving the co-ordinator, designers, principal contractor and other relevant contractors;
- the appointment of a lead designer, where many designers are involved; (see paragraph 61);
- agreeing a common approach to risk reduction during design;
- regular meetings of all the design team (including the co-ordinator) with contractors, and others;
- regular reviews of developing designs;
- joint meetings to review designs, where there is a shared interest in an issue;
- site visits.

### Design of components

176. Manufacturers supplying standardised products that can be used in any project are not designers under CDM2006, although they may have duties under supply legislation. The person who selects the product is a designer and must take account of health and safety issues arising from its use. If a product is purpose-made for a project, the person who prepares the specification is a designer under CDM2006, and so is the manufacturer who develops the detailed design.

### What designers don’t have to do

177. Under CDM2006, designers don’t have to:

- take into account or provide information about unforeseeable hazards and risks;
- design for possible future uses of structures that cannot reasonably be anticipated from their design brief;
c) specify construction methods, except where the design assumes or requires a particular construction or erection sequence, or where a competent contractor might need such information;
d) exercise any health and safety management function over contractors or others; or
e) worry about trivial risks.

178. Designers are not legally required to keep records of the process through which they achieve a safe design, commonly known as the Design Risk Assessment (DRA). This has led to the production of large amounts of paperwork listing generic hazards and risks, most of which are well known to the contractors and are not significant in any sense.

179. While paperwork should not be produced unless it is useful, brief records of the points considered, the conclusions reached, and the basis for those conclusions, can be very helpful when designs are passed from one designer to another. Such records also help detail designers to understand the rationale for previous decisions, and the implications for their work. If such decisions are not recorded it is more difficult and expensive to make design changes. Good records can also help to demonstrate that designers have exercised reasonable professional judgement in matters covered with CDM2006.
Chapter 5. The principal contractor

(Notifiable projects only)

180. Good management of health and safety on site, in practice – not just in theory, is crucial to the successful delivery of a construction project. The distinctive and key duty of principal contractors is to properly plan and manage the construction phase as far as health and safety is concerned. CDM2006 provides a framework for this process.

181. Principal contractors are usually the main or managing contractor. This allows the management of health and safety to be incorporated into the normal management of the project. This is good business practice as well as being helpful for health and safety purposes.

What principal contractors must do

Regulations 4, 5 and 16 to 18

182. Principal contractors must:

a) satisfy themselves that clients are aware of their duties, that a co-ordinator has been appointed and HSE notified before they start work;
b) make sure that they are competent to address the health and safety issues likely to be involved in the management of the construction phase;
c) ensure that the construction phase is properly planned, managed and monitored, with adequately resourced, competent site management appropriate to the risk and activity. With:
   o a full-time manager or supervisor on site except for the smallest and simplest, lowest risk projects;
   o a manager or other representative visiting low risk sites every working day;

to ensure safe working and co-ordination and co-operation between contractors.
d) ensure that a suitable construction phase health and safety plan (‘the plan’) is:
   o prepared before construction work begins;
   o developed in discussion with, and communicated to, contractors affected by it;
   o implemented; and
   o kept up to date as the project progresses;
e) satisfy themselves that the designers and contractors that they engage are competent and adequately resourced (chapter 7);
f) ensure suitable welfare facilities are provided from the start of the construction phase;
g) take reasonable steps to prevent unauthorised access to the site;
h) prepare and enforce any necessary site rules;
i) provide (copies of or access to) relevant parts of the plan and other information to contractors, including the self-employed, in time for them to plan their work – not after they start work;
j) liaise with the co-ordinator on design carried out during the construction phase, including design by specialist contractors, and its implications for the plan;
k) provide the co-ordinator promptly with any information relevant to the health and safety file (chapter 10);
l) ensure that all the workers have been provided with suitable health and safety induction, information and training (chapter 8);
m) ensure that the workforce is consulted about health and safety matters (chapter 9);

31 It is normally enough to have a copy of the notification to HSE showing that a co-ordinator has been appointed. Nothing more is needed unless there is reason to think that clients don’t understand their duties. (Regulation 19(1))
32 Clients are responsible for the competence and resources of designers and contractors they appoint directly.
33 They must meet the standards set out in Schedule 2 to the Regulations.
n) display the project notification.

Competence
183. To manage projects properly principal contractors need to understand the work processes involved and their health and safety implications to:
   - anticipate the type and extent of risks;
   - gauge the resources needed to deal with them;
   - assess whether contractors' proposals are practical and appropriate;
   - develop and implement the plan;
   - recognise and effectively deal with poor co-operation or conflict; and
   - provide effective leadership in developing and implementing the construction phase plan for the particular project.

184. Clients need to take reasonable steps to ensure that the chosen candidate has these practical skills in managing construction projects. Candidates without experience of managing similar construction work should normally be ruled out. As the risk, size and complexity of construction projects increases the previous practical experience of the principal contractor’s management team becomes progressively more significant.

Planning and managing health and safety in the construction phase
Regulation 16(1)(a)
185. Principal contractors must plan and manage the construction phase taking account of the information contained in the information pack and that provided by contractors. The effort devoted to planning and managing a project should be in proportion to the risk and complexity involved. For example demolition work normally needs meticulous planning and management to ensure that lives are not put at risk, but painting a house does not — as long as the risk of falls is properly addressed.

186. Under regulation 3 of the Management Regulations the principal contractor and other contractors must identify the hazards and assess the risks related to their work, including the risks they may create for others. Using this information and applying the principles of prevention (Schedule 1 of the Management Regulations) the principal contractor, in discussion with the contractors involved, must plan and manage the construction phase. This includes supervising and monitoring work to ensure that it is done safely and that it is safe for new activities to begin.

187. Where the project involves high risk-work, for example alterations that could result in structural collapse, or work on contaminated land, specialist advice is likely to be needed at the planning stage. This will often involve surveys by structural engineers, occupational hygienists, or other specialists.

The plan
Regulation 17
188. The way in which the construction phase will be managed and the key health and safety issues for the particular project must be set out in writing in the plan. This plan needs to be seen as an aid to management, not an end in itself. It is best if it forms part of any other construction plan, so that health and safety is treated as an integral part of normal management of the project. It is crucial that all relevant parties are involved and co-operate in the development and implementation of the plan as work progresses.
189. Although written plans are only legally required for notifiable projects\textsuperscript{34}, all projects must be properly planned and managed and the principles are always relevant.

190. To provide a basis for safe construction the plan must clearly explain the action needed to control key risks, and provide details of good working practice. The plan also needs to incorporate, or refer to, any required procedures, safety rules and monitoring arrangements.

191. \textbf{The plan must be tailored to the particular project.} The amount of detail needed depends on the nature and complexity of the project. It should be well focused, clear and easy for contractors and others to understand – emphasising key points and avoiding irrelevant material. \textit{Long, generic plans that nobody reads or uses are a waste of effort.} Photographs and sketches can greatly simplify and shorten explanations. It should also be organised so that relevant sections can easily be made available to designers and contractors.

192. Often the design and preparation for later work is not complete at the start of the construction phase. Nevertheless, the plan for the initial phase of the construction work must be prepared before any work begins. The parts of the plan relating to such work need to be developed as information becomes available in liaison with the co-ordinator.

193. The topics that need to be addressed when developing the construction phase plan are shown at appendix 2. Where other available documents address these issues appropriately, the plan may refer to them; the information does not need to be repeated.

\textit{Implementing and monitoring the plan}
\textit{Regulation 16(1)(a)}

194. A plan is no use if it is treated as merely a paper exercise and gathers dust. To improve standards, it must be a practical aid to the management of health and safety on site. Principal contractors and other contractors have a particular role in both implementing and monitoring the plan to ensure that it works in practice.

195. Principal contractors must take reasonable steps to make sure their plan is implemented throughout the construction phase. This includes having monitoring arrangements, which need to be discussed with the client as they form part of the management of the project arrangements. The purpose of monitoring is to ensure that the precautions described in the construction phase plan are appropriate and followed in practice. Where contractors do not work safely or comply with the plan, principal contractors must take appropriate action to deal with the risk. (They can give reasonable directions to any contractor and contractors have to comply – regulation 16(1)(f))

196. The plan needs to be routinely reviewed, revised and refined by the principal contractor as the project develops. For example, where the plan is not being followed, and health and safety is put at risk, those involved must take appropriate action to deal with the risk. Monitoring may show the plan has shortcomings and needs to be modified. Any significant changes in the plan should be brought to the attention of all those affected.

\textbf{Communication and co-operation}
\textit{Regulation 5}

197. Contractors must co-operate with each other, designers and others involved in the project so that all can comply with their legal obligations. Co-operation is essential, particularly on multi-contractor sites, if healthy and safe working conditions are to be achieved. Principal contractors must take the lead and actively encourage co-operation between contractors from an early stage.

\textsuperscript{34} Schedule 3, paragraph 4 also requires the system of work to be written out for demolition work, even if it is not part of a notifiable project.
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198. Practical ways to do this include regular:

a) Discussion of site health and safety issues with all contractors. This should begin before work starts, involving them as the plan is developed, and as part of regular site meetings once work is under way. It is important that such discussions give contractors ownership of relevant parts of the plan and encourage them to monitor and review their own health and safety arrangements, rather than relying solely on the oversight of the principal contractor.

b) Review of the health and safety plan to ensure that it is relevant, practical and up to date. Principal contractors need to ensure that other contractors provide the information to enable them to do this. In turn, they need to provide information to enable contractors to manage their work safely. Such information exchanges should form part of any regular site meetings.

c) Discussion of planned work to identify where the work sequence is crucial or where one contractor’s work may adversely affect others, for example excavations beneath scaffolding, roofers working above bricklayers or demolition and most other work.

199. Good, timely communication is essential to co-operation and risk control. Information about risks and precautions needs to be shared sensibly (ie relevant information, not everything) when it is needed to plan and manage work. This can be done by, for example:

a) drawings that highlight hazards or unusual work sequences identified by designers, with advice on where to find more information, if required;

b) the relevant parts of the plan;

c) induction training and toolbox talks to ensure workers understand the risks and precautions;

d) providing a leaflet explaining the site rules that can be given to everyone at the induction training;

e) making the plan available to workers and their representatives.

200. Much design work is carried out by or for contractors after construction work has started. Principal contractors should encourage such designers, working during the construction phase to discuss their proposals with the co-ordinator and each other at an early stage to ensure compatibility.

201. In addition to promoting co-operation and communication with and between contractors, principal contractors also need to include clients, designers and others affected by the work.

Rules

Regulation 16(1)(c)

202. Principal contractors must include any necessary rules for the management of construction work in the health and safety plan, which others on the site have to follow. These may cover issues such as restricted areas, permit-to-work systems, hot-work and emergency plans. In some cases they are needed to reflect the requirements of clients. Any rules must be:

- set out in the plan in writing;
- understandable to those who have to follow them;
- brought to the attention of everyone who has to follow them;
- enforced.
Controlling access onto sites

203. A principal contractor must take reasonable steps to prevent access by unauthorised persons to the construction site. Only people who are explicitly authorised, individually or collectively, by the principal contractor, should be allowed access. The authorisation may cover the whole site or be restricted to certain areas. HSE Inspectors, and others who have statutory powers to enter the site, should be treated as authorised people. Authorised people should have relevant site rules explained to them and undertake any necessary induction training. Some authorised visitors may need to be supervised while on site or visiting specific areas.

204. How access is controlled depends on the nature of the project, the risks and location. The boundaries of all sites should be physically defined, where practical, by suitable fencing. The type of fencing should reflect the nature of the site and its surroundings. Special consideration is needed where:

- rights of way cross sites;
- sites are in, or next to, other work areas;
- new houses are being built on a development where some houses are already occupied; or
- there are children or other vulnerable people nearby.

205. The effectiveness of the arrangements needs to be reviewed in the light of experience. In particular, their adequacy should be carefully reviewed if there is evidence of children playing on, or near the site.

Display of notification to HSE

206. The principal contractor must display a legible copy of the most up to date information notified to HSE where it can be read by people working on the site.

Training and information

207. Training is vital to securing health and safety on site. The principal contractor has to ensure so far as is reasonably practicable that every worker has:

- a suitable induction; and
- any further information and training needed for the particular work.

But this does not mean that the principal contractor has to train everyone on the site!

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35 For more information, read HSG151 Protecting the public: Your next move.
How many principal contractors can there be for each project?

*Regulation 8(2)*

208. There can only be one principal contractor for a project at any one time. However, sometimes two or more projects take place on a site at the same time. This can occur if different clients commission adjacent work, or if a client procures two truly independent, unrelated packages of work which do not rely upon one another for their viability or completion.

209. Where overlapping projects are running on a single construction site, it is best to appoint one principal contractor for them all. If this is not done, all the principal contractors must co-operate, and their plans must take account of the interfaces — eg in traffic management. The requirements of regulations 8, 9 and 11 of the *Management Regulations* are also relevant.

What principal contractors don’t have to do

210. Principal contractors don’t have to:

- provide training (apart from any induction) for workers that they do not employ\(^\text{36}\),
- undertake detailed supervision of contractors’ work.

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\(^{36}\) Genuinely self-employed workers are responsible for their own training, but people working under the control of others are usually their employees for health and safety purposes, even if they are treated as self-employed for other purposes.
211. Each year many people die or are injured as a result of inadequate attention to health and safety during construction work. Even more suffer ill health. Contractors and their employees, those actually doing the construction work, are most at risk of injury and ill health. They have a key role to play, in co-operation with the principal contractor, in planning and managing the work to ensure health and safety.

212. All contractors (including utilities, specialist contractors, contractors nominated by the client and the self-employed) have a part to play in ensuring that the site is a safe place to work. The key to this is communication and co-operation between all those involved. In addition to their duties under CDM2006, it is important that contractors understand and comply with other relevant health and safety law. Appendix 5 summarises some of the most relevant requirements.

213. Anyone who directly employs, engages construction workers, controls or manages construction work is a contractor for the purposes of these Regulations37. This includes companies that use their own workforce to do construction work to their own premises. The duties on contractors apply whether the workers are employees or self-employed, without distinction.

What contractors must do

Regulations 4, 5, 19 and 20

214. For all projects contractors must:
   a) plan manage and monitor their own work (taking account of risk assessments carried out under the Management Regulations or COSHH, etc.) to make sure that their workers are safe from the start of their work on site;
   b) satisfy themselves that they and anyone they employ or engage are competent and adequately resourced;
   c) check clients are aware of their duties38;
   d) provide their workers (whether employed or self-employed) with any necessary information, including about relevant aspects of other contractors’ work, and site induction (where not provided by a principal contractor) which they need to work safely, to report problems or to respond appropriately in an emergency;
   e) ensure that any design work they do complies with regulation 14;
   f) comply with any requirements listed in Schedules 2 and 3 to these Regulations that apply to their work;
   g) co-operate with others working on the project; and
   h) obtain specialist advice (eg from a structural engineer or occupational hygienist) where necessary when planning high risk-work – eg alterations that could result in structural collapse or construction on contaminated land.

215. In the case of notifiable projects (see para 24) contractors must also:
   a) check that a co-ordinator has been appointed and HSE notified before they start work;39
   b) co-operate with the principal contractor, co-ordinator and others working on the project;
   c) tell the principal contractor about risks to others created by their work;

37 See Regulation 2.
38 This is really aimed at the contractor or designer who first has contact with a client, other than a domestic client. Other contractors need take no action unless they have reason to suspect that the client is not aware of their duties. Giving them a copy of the CCG leaflet for clients or the HSE client’s information sheet will be sufficient for most non-notifiable projects. If a co-ordinator and a principal contractor have been appointed then contractors can normally assume that the client is aware of their duties.
39 Having a copy of the notification of the project to HSE (form 10) with the appointments detailed in it is normally sufficient.
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**Contracts**

d) comply with any reasonable directions from the principal contractor, and with any relevant rules in the health and safety plan;

e) inform the principal contractor of any problems with the plan or risks identified during their work that have significant implications for the management of the project;

f) tell the principal contractor about accidents and dangerous occurrences;

g) provide information for the health and safety file (chapter 10);

h) provide information and training to their employees (chapter 8).

216. Where contractors are involved in design work, including for temporary works, they also have duties as designers. See chapter 4

**Competence**

*Regulation 4*

217. Contractors need to make sure that they, and any sub-contractors they engage, are competent to carry out the proposed work safely and that all of their managers, supervisors and other workers are properly trained. This is particularly important when high-risk work (see paragraph 30) is involved and contractors are only likely to be competent if their team has previous experience of similar work. Possession of relevant specialist qualifications (eg the Demolition Operatives Scheme⁴⁰) and membership of a relevant specialist trade association are also good indicators of competence. Additional general guidance is contained in chapter 7.

**Information** (notifiable projects only)

*Regulation 19(1) and (5)(a)*

218. Contractors must not start work on a construction site until they have been provided with basic information. This must include the names of the co-ordinator and principal contractor, and the relevant parts of the health and safety plan.

219. Contractors must promptly inform the principal contractor about risks to other site workers or members of the public resulting from their work. This includes anything, for example from risk assessments and written systems of work, which might justify a review or update of the health and safety plan.

**Planning and managing**

*Regulation 19(2)*

220. All too often injuries and ill health are the result of the failure to:

- identify the risks involved;
- plan a safe method of work;
- manage, supervise and monitor the work;

221. *It is not sufficient to simply allow workers to just get on and do the job as they see fit.* Contractors, therefore, *always* have to plan, manage supervise and monitor their own work and that of their workers to ensure that it is carried out safely and that health risks are also addressed. As always the effort invested should reflect the risk involved and the experience and track record of the workers involved. They must also ensure that they comply with the requirements in Schedules 2 and 3 of the Regulations. Where contractors identify unsafe practices, they must take appropriate action to ensure health and safety.

222. In the case of notifiable projects contractors must also co-operate with the principal contractor in the development of the construction phase plan and then implement relevant parts. This does not mean abdicating management responsibility to the principal contractor. They still

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have to supervise and monitor their work against the plan. Where this identifies shortcomings in the plan, the contractor should inform the principal contractor.

223. If one contractor is overseeing the work for a domestic client then they should ensure that the work of the various contractors is properly co-ordinated. But, whether or not one contractor takes the lead, all must manage their own work and co-operate with one another to ensure that the site is safe.

**Reporting incidents**

*Regulation 19(5)(c)*

224. The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) require the ‘responsible person’ to notify any death, reportable injury, disease or dangerous occurrence to the relevant enforcing authority. The responsible person is the employer or, for the self-employed, the contractor or principal contractor.

225. Contractors must provide full information about RIDDOR incidents to principal contractors so that they can monitor compliance with health and safety law and, if necessary, review the arrangements for the management of health and safety. The health and safety plan should cover reporting of ‘near miss’ incidents and incident investigation.
Chapter 7. Competence and resources

226. This Chapter provides general advice about assessing the competence and resources of those engaged or appointed under CDM\textsuperscript{2006} – co-ordinators, designers, principal contractors, and contractors. The training and competence of individuals is addressed in the following chapter. There is also specific advice on the competence of particular dutyholders in relevant chapters.

227. It is in everyone’s interest to ensure that those with duties under CDM\textsuperscript{2006} are competent and adequately resourced to do their jobs properly, manage risks and avoid delays. To be competent, an organisation or individual must have sufficient experience, knowledge and other skills to carry out their duties satisfactorily. This includes management skills, where appropriate. While checking on quality, financial viability, etc., little additional effort is required to ensure that the organisation or individual is also competent and has sufficient resources to carry out their work safely. Dealing with all of these issues together works best. Assessments should focus on the needs of the particular project and be proportionate to the risks, size and complexity of the work.

What you must do

Regulation 4

228. All those with duties under CDM\textsuperscript{2006} must satisfy themselves that businesses that they engage or appoint are competent. This means making reasonable enquiries to check that the organisation or individual is competent to do the relevant work and can allocate adequate resources to it. People appointed must also be sure that they are competent to carry out the required tasks.

229. Co-ordinators should be in a position to advise clients about competence of designers and contractors. Clients should ask for this advice, unless they have enough expertise in construction and health and safety to make the assessments themselves.

Principles

230. Assessment of competence and resources needs to take place before each appointment is made. The following principles underpin such assessments:

a) the competence and resource requirements under CDM\textsuperscript{2006} relate only to health and safety purposes but, in practice, it makes much more sense to check all aspects of competence needed to do the work together;

b) the level of competence must be adequate:
   o for the actual needs of the project being planned; and to
   o enable the appointee to comply with duties under these and other relevant legislation;

c) enquiries should be proportionate, well targeted and not repeat checks carried out for recent, similar work;

d) in most cases, demonstration of a successful track record of managing and carrying out similar work should be sufficient indication; and

e) for simple, low-risk projects, minimal checks are needed.

231. Unnecessary bureaucracy obscures the real issues and diverts effort from them. It can result in insufficient attention being paid to the availability of adequate resources, particularly time. Standard, generic pre-qualification questionnaires have been widely used, but are often irrelevant with little benefit to health and safety. They also tend to measure the ability to complete questionnaires, rather than to manage health and safety. There are generally more useful ways to assess competence and resources.

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\textsuperscript{41} HSE has commissioned research to identify ways of simplifying the assessment of competence. (See http://www.hse.gov.uk/construction/cdmguides.htm.) The outcome of this study, together with responses to these proposals will shape guidance on competence in the final draft.
Draft guidance

How to assess competence and resources

232. It may be that the best individual or organisation is weak in certain areas. This can often be addressed by putting arrangements in place to cover such weak points or by employing people with particular expertise for relevant parts of the contract. What really matters is that the project team, taken as a whole, is competent and support one another.

Example 28
A client committed to securing high standards of health and safety during the construction phase of a major city centre redevelopment project set aside a sum of money to fund an occupational health professional to be present on site throughout that phase. The occupational health professional was able to carry out audiometry, checks for solvent and cement dermatitis, give training and advice on lifting and manual handling, and provide advice to contractors on reducing noise, dust and vibration hazards.

233. There are a number of relevant, widely recognised standards and pre-qualification schemes. Where these address the above issues they are likely to be the best way of performing the initial sift. They can be supplemented, for example by site visits and one-to-one interviews to address the specific needs of projects that need particular skills.

234. Enquiries to assess competence and resources might usefully cover some or all of the following:

   a) information about track record – simple evidence of health and safety performance, such as personal experience from previous projects, references from those who have engaged the dutyholder on previous projects, information from reviews following previous projects, and evidence from site visits;

   b) evidence of competence of individuals including managers and supervisors, their practical experience and knowledge of the work, qualifications, membership of a relevant trade or professional body, and training in health and safety;

   c) the availability of sufficient, appropriate, competent people and essential equipment, facilities and management systems;

   d) whether organisations and key people can devote sufficient time to the project; and

   e) information about past health and safety performance, including previous enforcement action (though this may not be a reliable indicator of current standards) and the steps taken to put things right. However, an absence of enforcement action is not, on its own, a reliable indicator of competence.

235. Bids from prospective appointees can also provide a useful indication of competence in the way they set out how they propose to deal with the health and safety matters identified in the information pack.

Time and resources

Regulation 7(2)(a)

236. Appointees need the necessary plant, machinery, technical facilities, trained and competent people, and time to do their jobs properly. A breakdown of funds devoted to health and safety is not required, but it may be helpful in relation to some high-risk matters specifically identified in the health and safety plan.

Example 29
On the recommendation of a friend, a client appointed a contractor to demolish a four-storey building before work could start on a new-build project. The client was keen to get the work started quickly, and did not carry out the necessary checks on competence and resources prior to making the appointment. The contractor began work on the site almost immediately, but the building collapsed into the street causing damage to cars and adjacent properties, and closing off the road for several days.

The project was delayed for many months whilst insurers debated who should pay the costs incurred by the neighbours, the emergency services, the local authority and the owners of damaged vehicles. The demolition contractor’s prior experience was limited to the demolition of domestic housing.

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42 Constructionline (http://www.constructionline.co.uk/) and CHAS (http://www.chas.gov.uk) are examples.

43 See chapter 8.
Draft guidance

237. The resources provided for a project must be sufficient to:
- carry out the design work;
- assemble the information needed;
- prepare the construction phase health and safety plan;
- mobilise the labour force and equipment;
- arrange welfare facilities;
- plan and prepare for the project; and
- carry out the construction work safely.

238. Clearly, clients, and others who plan work and make appointments, must allocate sufficient time and funds. The planned dates for key project stages should also be set out in the information pack, so that designers and contractors can plan their work and allocate resources appropriately. It is better to have a realistic completion date than an unrealistic deadline.

Competence and resources

Example 30

A principal contractor engaged a roofing company, with whom they had worked before, to carry out refurbishment work on the roof of an existing warehouse. Competence checks were made, and these were cross-referenced with the performance of the roofing firm on the previous contracts. The contract was awarded, but the roofing firm sub-let the work to another company at a considerably reduced price. The company which carried out the work had never done such a large job before and was not competent to do the job.

A worker from this company fell to his death from the roof. The principal contractor and the roofing firm were each prosecuted for failing to adequately check the competence of the company which actually carried out the work.
Chapter 8. Information and training

239. Good information and training on health and safety are vital. People are more likely to adopt safe working practices if they understand the reasons behind them. Effective information and training contributes positively to the health and safety culture. It is needed at all levels, from the top down, and for all disciplines and is particularly important for those planning and carrying out high-risk work like demolition.

What you must do

Regulations 4, 16(2), 19(3), HSWA (S 2(2)(c)) and Management Regulations (regs. 10, 12 and 13)

240. Health and safety law requires employers to ensure the competence of their employees and to provide training and instruction as necessary. There are several additional requirements about competence, training, and information in CDM:

a) Anyone who arranges for or instructs site workers, professionals or managers, to carry out or manage design or construction work must ensure that they are competent to do their job, or in the case of trainees, is under the supervision of a competent person.

b) Self-employed workers have a similar duty to ensure their own competence, but their competence still needs to be confirmed by the person engaging or appointing them.

c) The principal contractor has to make sure that construction workers are provided with suitable site induction; and any further information and training needed for the particular work. They must also check that contractors provide their own employees with the extra information referred to in the following paragraph. (In practice much of this information is provided through the induction.)

d) Contractors also have to provide their workers (whether employed or self-employed) with:
   o a suitable site induction, if this is not provided by a principal contractor;
   o any necessary information, including about relevant aspects of other contractor’s work, new or increased risks, such as those arising from a change of responsibilities, new technology or new systems of work;
   o the procedures to follow in an emergency and who is responsible for them.

241. When developing training schemes it is important to ensure that the content and style are appropriate. This includes providing training in a form that trainees can understand. Workforce or trade union appointed safety representatives can make a significant contribution to developing such training, and a joint approach can help ensure people adopt good practices.

242. Training is principally the responsibility of the employer or individual self-employed workers. However, principal contractors and contractors need to check that workers have basic and any additional training needed for any particular tasks. A relevant NVQ, SNVQ or CSCS card is normally enough to show basic competence, but this needs to be reviewed in the light of practical experience and higher levels of competence are inevitably needed for some work.

243. Information and training should be provided in a way that takes account of any language difficulties or disabilities. It can be provided in whatever form is most suitable in the circumstances, as long as it can be understood by everyone. For employees with little or no understanding of spoken or written English, employers need to make special arrangements. These include providing translation, using interpreters, and replacing written notices with clear symbols or diagrams.

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44 In most cases a relevant CSCS card (http://www.cscs.uk.com/) CCNSG passport (http://www.ecitb.org.uk/learning_&_development/adult_learning/safety_passport.cfm) or similar qualification is the minimum needed to demonstrate that a worker has achieved a basic level of competence.

45 See regulation 13(2)(b) of the Management Regulations

46 Further advice is provided CILT, the National Centre for Languages– http://www.cilt.org.uk and the Construction Confederation – http://www.thecc.org.uk
Draft guidance

Information and training

244. The construction phase health and safety plan is a valuable source of information to contractors about risks to their employees and others under their control. It needs to be kept up to date. It should include the arrangements for providing induction information and training on site.

Induction

245. To ensure people have relevant information and training for their work, principal contractors need to ensure adequate induction for all who are new to a site; this is particularly important for young workers and those who are new to the industry. Induction is not intended to provide the general health and safety information and training that people need to do their job, but it should include explanation of the following:

a) senior management commitment to health and safety;
b) the outline of the project;
c) the individual’s immediate line manager and any other key personnel;
d) any site-specific health and safety risks, for example in relation to access, transport, site contamination, hazardous substances and manual handling;
e) control measures on the site, including:
   o any site rules;
   o any permit-to-work systems;
   o traffic routes;
   o security arrangements;
   o hearing protection zones;
   o arrangements for personal protective equipment, including what is needed, where to find it and how to use it;
f) arrangements for housekeeping and materials storage;
g) facilities available, including welfare facilities;
h) emergency procedures, including fire precautions, the action to take in the event of a fire, escape routes, assembly points, responsible people and the safe use of any fire fighting equipment;
i) arrangements for first aid;
j) arrangements for reporting accidents and other incidents;
k) additional training planned, such as ‘toolbox’ talks;
l) arrangements for consulting and involving workers in health and safety, including the identity and role of any:
   o appointed trade union safety representatives,
   o representatives of employee safety,
   o safety committees.
m) information about the individual’s responsibilities for health and safety.

246. Inductions are a way of providing workers with the specific information they need to know the particular arrangements and risks related to a specific site. They are not an end in themselves and are pointless if everyone switches off because they have heard it all before or they cannot understand what they are told.
Draft guidance  Involving the workforce

Chapter 9. Involving the workforce

247. It is essential that the workforce and their representatives are fully involved in health and safety issues at all relevant stages of a project, particularly the construction phase. This is because the workforce are most at risk of injury, and because they have a lot to contribute to improving health and safety. Their first hand involvement in the actual conditions of work means they are often the first to identify potential problems. The workforce includes anyone at work on the site, such as members of the design team.

248. Representatives of the workforce have an important part to play in explaining and selling safety measures to the workforce and in communicating their needs and views. On large sites, an active safety committee can be a highly effective way of encouraging the whole workforce to co-operate and participate in improving standards of health and safety. For example, committees can address common problems, review accidents, near misses and consider how to address risks. For any committee to be successful, it must be seen by all parties to be effective. Thought must also be given as to how to involve the workforce in urgent matters, when use of a committee is not appropriate.

249. Involving the entire workforce in identifying and controlling risks is crucial to reducing the high accident rate associated with construction. Participation will be most effective when the workforce has sufficient knowledge and confidence to provide feedback, and can identify risks and explain their importance. People have the confidence to do this when they are properly trained, know how to report their concerns, and see prompt action being taken as a result.

The Construction Industry Advisory Committee (CONIAC) has developed the following declaration. It sets out the industry’s commitment to improve worker engagement as a means of reducing accidents and ill health in the construction industry.

CONIAC Declaration on Engaging the Workforce

Statement of Principle

Every construction worker has a right to work in places where risks to their health and safety are properly controlled.

Every worker should have a voice and will be given opportunities to influence health and safety in the places they work.

We commit to actively promoting positive relationships between workers and their representatives, employers, designers, clients and those having control of construction work. We recognise the role that unions and safety representatives play in improving worker health and safety consultation.

We will:

- Expect All workers to get involved;
- Encourage clients, employers, designers, project managers and others in control of construction work to ensure workers are listened to and given real opportunities to help improve their working conditions;
- Ensure that sufficient resources, including training, are made available to all sectors of the construction industry to improve worker consultation;
- Develop and share best practice in the industry.

Our aim is to achieve a long-term culture change in the construction industry, in order to improve working conditions for everyone.
Draft guidance  Involving the workforce

What CDM2006 requires

250. Other Regulations place duties on employers to consult with worker representatives (see paragraph 251). Individual employers have the primary duty to consult their own employees, but CDM places parallel duties on the Principal Contractor regarding broader, site-wide matters. The principal contractor must ensure that:

- workers are consulted and can discuss, and offer advice on, matters connected with the particular project which affect their health or safety; and
- workers or their safety representatives can inspect and take copies of risk assessments and other information about the planning and management of the particular project which are relevant to their health or safety.

Worker representatives

251. There are two types of worker representative:

- those appointed by recognised trades unions under the Safety Representatives and Safety Committees Regulations 197747 (SRSCR), and,
- representatives of employee safety appointed under the Health and Safety (Consultation with Employees) Regulations 199648 (HSCER).

252. Where there are safety representatives, representatives of employee safety, or safety committees at a site, principal contractors should use them to ensure that they are able to benefit from the experience of the workforce.

253. Both types of representative are entitled to training to enable them to play a full and active part in securing health and safety. Suitable training is available through a number of bodies, including trade unions.

254. Where representatives have not been appointed or do not provide complete coverage, the principal contractor must make other arrangements so that those not represented, including the self-employed, have similar opportunities to discuss health and safety issues. Arrangements should be tailored according to the size and nature of the project and risks involved.

Engaging the Workforce and Developing a Safety Culture

255. Good communication is central to effective consultation, engagement and the development of an effective safety culture. This will encourage workers themselves, to identify and help to ensure risks are controlled. It is not dependent on the use of representatives and safety committees alone. A combination of several approaches is likely to be most effective. For example:

- involving people actively in managing the hazards associated with their work to help identify optimum solutions and avoid expensive mistakes;
- informal discussions, invitations to attend open meetings and meetings with subcontractors;
- toolbox talks provide an opportunity for individuals to voice their concerns and become involved in health and safety issues relating to their immediate working area and tasks.

256. Highlighting the results and benefits of raising issues encourages people to become involved.

257. Once established, the arrangements for involvement and consultation should be included in the construction phase health and safety plan. The workforce and their representatives are likely to be able to contribute to the development of this plan; and, in particular, to provide insights into specialised areas of activity. (Paragraph 188 provides more details on the plan.)

47 See “Safety representatives and safety committees” (L 97, ISBN 0717612201)
48 See “A guide to the Health and Safety (Consultation with Employees) Regulations 1996.” (L 95, ISBN 0717612341)
Draft guidance

258. In order to ensure that effective consultation takes place principal contractors need to:
   a) demonstrate leadership in promoting effective consultation;
   b) provide encouragement, training and sufficient resources for site managers and supervisors;
   c) implement an appropriate mixture of consultation methods such as:
      o using TU Safety Reps and representatives of employee safety;
      o establishing health and safety committees;
      o informal consultation during induction training, briefings, toolbox talks, site meetings;
      o suggestion schemes;
      o open door policies;
      o hazard hotlines;
      o worker awareness checklists;
   d) monitor the effectiveness of the arrangements for consultation and make any required changes to improve them; and
   e) celebrate the benefits of worker engagement.

What the workforce have to do

259. By actively encouraging workforce involvement, principal contractors make it easier for individual workers to participate in and discharge their own responsibilities for health and safety. Under HSWA and the Management Regulations and Regulation 5(2) workers at all levels have duties to:
   a) take reasonable care for their own health and safety and that of others who may be affected by what they do at work;
   b) co-operate with their employer in order to comply with any relevant health and safety law;
   c) report any work situation, defects or shortcomings in health and safety arrangements which might endanger themselves or others;
   d) use all work items and written systems of work provided by their employer correctly, in accordance with their training and the instructions they have received.

260. Anyone who is exposed to serious, imminent and unavoidable danger has the right, under the Management Regulations, to stop work and immediately proceed to a place of safety.

261. The duties placed on employees do not reduce the legal responsibilities of the employer. In particular, employers need to ensure that employees receive adequate instruction and training to enable them to comply with their duties.
Chapter 10. The health and safety file

(Notifiable projects only)

262. The health and safety file provides information needed during future construction work, including cleaning, maintenance, alterations, refurbishment and demolition. Information in the file is essential to those doing the work. It alerts them to risks and helps them to decide how to work safely. It can also provide information for future health and safety plans and is useful to:

- clients, who have a duty to provide information about their premises;
- designers during the development of further designs;
- co-ordinators preparing for construction work;
- principal contractors and contractors preparing to carry out or manage such work.

263. The file can provide significant benefits to the client by minimising the cost of future work, and is a key part of the information that the client, or the client’s successor, is required to provide for future projects under regulation 12. It is therefore well worth the effort to ensure it is kept up to date after any relevant work or surveys, even when it is not legally required.

264. The scope, structure format and medium for the file need to be agreed between the client and co-ordinator at the start of a project. There can be a separate file for each structure, one for an entire project or site or one for a group of related structures. The file can be combined with the Building Regulations Log Book or a maintenance manual providing that this does not result in the health and safety information being lost or buried. What matters is that people can find the information they need for projects easily and any differences between similar structures are clearly shown.

265. It may be kept electronically (with suitable backup arrangements), on paper, on film, or other durable media. Whatever the format, it should be easy to find information.

What you must do

266. Clients, designers, principal contractors, other contractors and co-ordinators all have legal duties in respect of the health and safety file:

- co-ordinators must prepare, review, amend or add to the file, as necessary, and give it to the client at the end of projects;
- clients, designers, principal contractors and other contractors must supply information;
- clients must keep the file for future construction work; and
- everyone providing information should make sure that it is accurate, and provided promptly.

267. A file must be produced or updated (if one already exists) as part of all notifiable projects. For some projects, for example re-decoration using non-toxic materials, and simple maintenance, there may be nothing of substance to record. Only information likely to be significant for health and safety in future work need be included. The NHBC Purchaser Manual provides suitable information for developers to give to householders.

268. The client must ensure that the co-ordinator compiles the file. In some cases, for example design and build contracts, it is more practical for the principal contractor to obtain the information needed for the file from the specialist contractors. The principal contractor can assemble the information and give it to the co-ordinator or the principal contractor can be appointed as co-ordinator for that specific purpose, and take full responsibility for preparing or updating the file.

269. The collection and compilation of the relevant data needs to be managed properly. It can be difficult to obtain information for the file after designers or contractors have completed their work. The information needs should, therefore, be clearly spelled out in advance, for example in contracts, to ensure that the information is prepared and handed over in the required form at the right time.

The contents of the health and safety file

270. The health and safety file should include information about all the following topics, where this may be relevant to the health and safety of any future construction work. The level of detail should allow the likely risks to be identified and addressed.

a) a brief description of the work carried out;
b) residual hazards and how they have been dealt with (for example surveys or other information concerning asbestos, contaminated land, water bearing strata, buried services);
c) key structural principles (eg, bracing, sources of substantial stored energy – including pre- or post-tensioned members) and safe working loads for floors and roofs, particularly where these may preclude placing scaffolding or heavy machinery there;
d) hazardous materials used (for example, lead paint, pesticides, special coatings which should not be burnt off);
e) information regarding the removal or dismantling of installed plant and equipment (for example lifting arrangements);
f) health and safety information about equipment provided for cleaning or maintaining the structure;
g) the nature, location and markings of significant services, including fire-fighting services;
h) information and as-built drawings of the structure, its plant and equipment (eg, the means of safe access to and from service voids, fire doors and compartmentation).

271. The file does not need to include things that are not likely to be needed for health and safety reasons in the future, for example:

a) the pre-tender, or construction phase health and safety plan;
b) construction phase risk assessments, written systems of work and COSHH assessments;
c) details about the normal operation of the completed structure;
d) construction phase accident statistics;
e) details of contractors and designers involved in the project;
f) contractual documents;
g) information about structures, or parts of structures, that have been demolished – unless there are any implications for remaining or future structures, eg, voids; or
h) information contained in other documents, but relevant cross-references should be included.

272. Some of these items may be useful to the client for later work, or may be needed for purposes apart from CDM2006. They may even include details that are relevant to the health and safety file, but CDM2006 does not require them to be included in the file. Indeed including too much such material may hide crucial information about risks.

The preparation of the file

Co-ordinators

273. The co-ordinator needs to:

a) agree the structure and format with the client at the start of the project;
b) tell designers and contractors what they need to provide for the file and when;
c) gather all needed, relevant information throughout the project;
d) prepare, amend or add to the file as necessary;
e) review the file with the client to ensure they understand its purpose and value; and
f) give the file to the client at the end of the construction phase or earlier, eg when needed for another project which will begin before the end of the first project.
Draft guidance

Designers
274. Designers need to provide the person preparing the health and safety file with relevant information. They must not wait until the end of the project. The details they provide should include information of the type described in paragraph 169 and following.

Contractors
275. Principal contractors and other contractors have to promptly provide relevant information for the file, this includes information which comes to light during work, even if it is not relevant to the work being carried out at the time. Information should be made available as early as possible to ensure the file can be:

- developed as the project progresses; and
- completed in good time and handed over when the client takes over responsibility for the structure.

Clients
276. Clients have to keep the health and safety file available for inspection by anybody who needs the information. Emergency maintenance contractors may need to see the file in advance, so that they can work safely if they are called in. To be useful the file needs to be kept up to date, and retained for as long as it is relevant.

277. Where clients dispose of their entire interest in a structure, they should pass the file to the new owners and ensure that they are aware of the nature and purpose of the file. Where they sell part of a structure, any relevant information in the file should be passed or copied to the new owner.

278. If the client leases out all or part of the structure, arrangements need to be made for the health and safety file to be made available to leaseholders. In some cases, the client might transfer the file to the leaseholder during the lease period. In other cases, it may be better for the client to keep the file, but tell leaseholders that it is available. If the leaseholder acts as a client for future construction projects, the leaseholder and the original client will need to make arrangements for the file to be made available to the new co-ordinator.

279. In multi-occupancy situations, for example where a housing association owns a block of flats, the owner should keep and maintain the file, but ensure that individual flat occupiers are supplied with health and safety information concerning their home.

280. A development may include roads and sewers that will be adopted by the local authority or water company. It is generally best to prepare separate files covering each client’s interests.

Example 33
A client included the preparation of the health and safety file in the co-ordinator’s contract. The co-ordinator received information from the principal contractor and designers for inclusion within the health and safety file. The co-ordinator reviewed all the information provided and extracted what was needed for inclusion within the health and safety file. One contractor had provided his risk assessments. The co-ordinator did not include these because they were not relevant to future construction or cleaning work.
[Note: The full text of the Regulations will be provided in the final document. They are not repeated here as they can be seen in Annex A to the Consultative Document.]
### Draft guidance

**Appendix 2 – Information and Plan**

#### Appendix 2 The information pack and health and safety plan

The information pack and health and safety plan should include or address all the following topics, where they are relevant to the work proposed. The information pack provides background information for those bidding for or planning work, and for the development of the construction phase plan, which sets out how health and safety is to be managed during the construction phase. The level of detail should be proportionate to the risks involved in the project. Paragraphs 70 and 121 provide further information about the information pack and paragraph 188, regarding the plan.

<table>
<thead>
<tr>
<th>Information pack</th>
<th>Construction phase plan</th>
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<tr>
<td><strong>1. Description of project</strong></td>
<td><strong>1. Description of project</strong></td>
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<td>a) project description and programme details including:</td>
<td>a) project description and programme details including any key dates;</td>
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<td>• key dates (including planned start and finish of the construction phase);</td>
<td>b) details of client, co-ordinator, designers, principal contractor and other consultants;</td>
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<td>• the minimum time to be allowed between appointment or instruction to</td>
<td>c) extent and location of existing records and plans.</td>
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<td>commence work and start on site.</td>
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<tr>
<td>b) details of client, designers, co-ordinator and other consultants;</td>
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<td>c) extent and location of existing records and plans.</td>
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<td><strong>2. Client’s arrangements &amp; requirements</strong></td>
<td><strong>2. Management of the work</strong></td>
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<td>a) arrangements for:</td>
<td>a) management structure and responsibilities;</td>
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<td>• timing and sequence of appointments;</td>
<td>b) health and safety goals for the project and arrangements for monitoring and</td>
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<td>• review of designs and modifications;</td>
<td>review of health and safety performance;</td>
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<td>• planning for and managing of construction;</td>
<td>c) arrangements for:</td>
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<td>• communication and liaison between parties;</td>
<td>• regular liaison between parties on site; consultation with the workforce;</td>
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<td>• security of the site;</td>
<td>• the exchange of design information between the client, designers,</td>
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<td>• welfare provision;</td>
<td>co-ordinator and contractors on site;</td>
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<td>b) requirements relating to the health and safety of the client’s employees or</td>
<td>• handling design changes during the project;</td>
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<td>customers, eg, permit-to-work systems, fire precautions, one-way systems,</td>
<td>• the selection and control of contractors;</td>
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<td>means of escape, ‘no-go’ areas, smoking and parking restrictions;</td>
<td>• the exchange of health and safety information between contractors;</td>
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<td>c) permits and authorisation requirements;</td>
<td>• site security,</td>
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<td>d) emergency procedures;</td>
<td>• site induction and on site training;</td>
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<tr>
<td>e) site rules and other restrictions on contractors, suppliers and others eg</td>
<td>• welfare facilities and first aid;</td>
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<td>access arrangements to those parts of the site which continue to be used by</td>
<td>• the reporting and investigation of accidents and incidents including near misses;</td>
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<td>the client;</td>
<td>• the production and approval of risk assessments and written systems of</td>
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<td>f) activities on or adjacent to the site during the works – eg deliveries;</td>
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<td>g) arrangements for monitoring review</td>
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### Draft guidance

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<td>d) site rules;</td>
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<td>e) fire and emergency procedures.</td>
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### Appendix 2 – Information and Plan

#### 3. Environmental restrictions and existing on-site risks

**a)** safety hazards, including:
- boundaries and access, including temporary access – eg narrow streets, lack of parking, turning or storage space;
- adjacent land uses – eg schools, railway lines or busy roads;
- existing storage of hazardous materials;
- location of existing services particularly those that are concealed – water, electricity, gas, etc. ;
- ground conditions, underground structures or water courses where this might affect the safe use of plant, eg cranes, or the safety of groundworks;
- existing structures – stability, fragile or hazardous materials, anchorage points for fall arrest systems;
- previous structural modifications, including weakening or strengthening of the structure;
- fire damage, ground shrinkage, movement or poor maintenance which may have adversely affected the structure;
- any difficulties relating to plant and equipment in the premises, such as overhead gantries whose height restricts access;
- health and safety information contained in earlier design, construction or ‘as-built’ drawings, such as details of pre-stressed or post-tensioned structures.

**b)** health hazards, including:
- asbestos, including results of surveys;
- existing storage of hazardous materials;
- contaminated land, including results of surveys;
- existing structures hazardous materials;
- health risks arising from client’s activities.

#### 3. Arrangements for controlling significant site risks

**a)** safety risks:
- delivery and removal of materials (including waste) and work equipment taking account of any risks to the public, eg during access to or egress from the site;
- services, including temporary electrical installations;
- preventing falls;
- work with or near fragile materials;
- control of lifting operations;
- dealing with services – water, electricity and gas;
- the maintenance of plant and equipment;
- poor ground conditions;
- traffic routes and segregation of vehicles and pedestrians;
- storage of materials (particularly hazardous materials) and work equipment;
- dealing with existing unstable structures;
- accommodating adjacent land use;
- other significant safety risks.
### Information pack

#### 4. Significant design and construction hazards
- a) significant design assumptions and suggested work methods, sequences or other control measures;
- b) arrangements for co-ordination of on-going design work and handling design changes;
- c) information on significant risks identified during design;
- d) materials requiring particular precautions.

#### 5. The health and safety file
- format and content.

### Construction phase plan

#### b) health risks
- the removal of asbestos;
- dealing with contaminated land;
- manual handling;
- use of hazardous substances;
- reducing noise and vibration;
- other significant health risks.

#### 4. The health and safety file
- a) layout and format;
- b) arrangements for the collection and gathering of information;
- c) storage of information.
Appendix 3 Integrated Risk Management

1. Poor pre-construction organisation, planning and co-ordination are the underlying causes of a significant proportion of construction injuries and ill health. CDM2006 requires co-operation and co-ordination between the various parties involved in a project both during preparatory work and also its execution. But although the co-ordinator and principal contractor are appointed to address these issues it is not easy to see how they can be tackled.

2. A useful tool to improve co-operation and co-ordination is the Risk Register or Risk Management Register. It has been found to help break down the barriers between the parties that leads to each working and managing risk in isolation (the silo mentality) and also, all too often, hiding risks and buck-passing – usually to those least able to argue or manage the risks – to avoid liability should something go wrong. For the same reason it can help to avoid the production of excessive paperwork and to draw attention to key issues.

3. Risk registers formalise risk management and communicate the most important information in a structured manner. They can show links between commercial risks (eg cost and programme) and health and safety. A risk register also provides an audit trail for future reference, but if it is not kept up to date and developed it will become obsolete. To be useful, a register must be a living document, running through the whole project, maintaining continuity.

4. The aim of project risk registers is to encourage the team to use their shared knowledge and experience to ensure that risks are identified, eliminated or reduced by whoever is best able to do so. The shared risk register is a core document whose preparation draws the parties together, briefly records their findings, the risk owner, agreed control measures and “date to be done by”.

5. After initial completion it becomes a control tool, which can be used to check that the planned actions are implemented. It provides a framework for design risk reduction and provides a summary of the key issues covered in the information pack. The risks remaining for the construction phase also provide a framework for the development of the construction phase plan. It will also feed into the health and safety file at the end of the project.

6. If generic risks are included in the risk register, rather than confining it to strategic issues, it can become bureaucratic and unhelpful. The risk register should not address construction risks that are adequately covered by normal management procedures and operative training. It is intended to draw attention to, and assist the management of, significant, project specific risks; which could impact workers lives and the commercial success of the project.

7. The following is a simple example of a risk register:

<table>
<thead>
<tr>
<th>Project Risk Register</th>
<th>Date:</th>
<th>Revision:</th>
<th>Author:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ref. No.</td>
<td>Risk description</td>
<td>Assessment</td>
<td>Action</td>
</tr>
<tr>
<td>Detail</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Qualitative or Quantitative</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Page – 122
**Appendix 4 – Project timeline**

**Gateways**

Gateways are a particular form of checkpoint — stages of a project when key decisions are made. They help to provide a structured approach to management of projects. They are used extensively in government and other large projects, but the general approach is equally relevant to small projects. Although CDM 2006 lends itself to a gateway approach, it would be unwise to structure all other management processes around CDM. This appendix therefore illustrates how the CDM gateways can fit in with wider project gateways.

Gateways require the project team to confirm that they are satisfied that the required work has been completed to an agreed standard at each stage. In itself, this encourages more integrated team-working, which brings together all of the team’s combined expertise to ensure that the client gets what they want for the best value. However, good leadership is necessary to avoid excessive bureaucracy and keep the focus on key issues.
Non-notifiable Construction Projects

1. **Non-notifiable project**
   - Select competent project team
   - Agree management arrangements
   - Design structure/alterations
   - Obtain info about existing site and structures [para xx]
   - Health and safety file [para ix]
   - Update file
   - Only if information needed in possible future work
   - Only if needed for planned work

2. **Health and safety file**
   - This may be just notes on the drawings

3. **Is it safe to build?**
   - Yes
   - Plan/prepare for construction work
   - Prepare design info
   - Buildability/Maintainability
   - Construction

4. **Talk!**
   - Select competent project team
   - Agree management arrangements
   - Design structure/alterations
   - Obtain info about existing site and structures [para xx]
   - Health and safety file [para ix]
   - Update file
   - Only if information needed in possible future work
   - Only if needed for planned work

5. **Prepare design info**
   - Plan/prepare for construction work
   - Only if information needed in possible future work

6. **Construction phase**
   - Prepare info for health and safety file
   - Only if needed for possible future work

7. **Project conclusion and review**
   - Handover and occupation

---

*Mainly:* who does what
*Rarely in writing for simple/low risk projects*
Notifiable Construction Projects

1. Clients and construction Projects
   - Obtain info about existing site and structures [para xx]
   - Main design
     - Develop project management arrangements.
     - Select competent project team (key members)
   - Plan prepare for construction work
     - Appoint Principal Contractor and other key contractors
   - Gateway 2 Buildability/Maintainability
   - Is it safe to build?
     - Yes - Prepare design info
     - No - rework design
   - Gateway 3 Construction
     - Plan construction work
     - Are there adequate welfare facilities?
       - Yes - Is plan OK?
       - No - info
     - Prepare design info
     - Review safety of additional design elements as completed
     - Gate 4 Info
       - Handover and occupation
       - Info for health and safety file
   - Gateway 4 Project conclusion and review
     - Talk!
### Appendix 7 – Glossary of terms

#### Appendix 5 Summary of key health and safety legislation

NB — this list is not intended to be exhaustive.

<table>
<thead>
<tr>
<th>Title</th>
<th>Summary</th>
<th>Abbreviation (if used)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confined Spaces Regulations 1997</td>
<td>Safe working in confined spaces, i.e. where there is a risk of death or serious injury from hazardous substances or dangerous conditions (eg lack of oxygen)</td>
<td></td>
</tr>
<tr>
<td>Construction (Head Protection) Regulations 1989</td>
<td>Ensuring head protection is provided and worn</td>
<td></td>
</tr>
<tr>
<td>Construction (Health, Safety and Welfare) Regulations 1996</td>
<td>Previous regulations about practical safety requirements on site – replaced by these and the Work at Height Regulations.</td>
<td>CHSW</td>
</tr>
<tr>
<td>Control of Asbestos at Work Regulations 2002</td>
<td>Control of exposure to asbestos</td>
<td></td>
</tr>
<tr>
<td>Control of Lead at Work Regulations 2002</td>
<td>Control of exposure to lead</td>
<td></td>
</tr>
<tr>
<td>Control of Substances Hazardous to Health Regulations 2002</td>
<td>Control of health risks</td>
<td>COSHH</td>
</tr>
<tr>
<td>Dangerous Substances and Explosives Atmospheres Regulations 2002</td>
<td>Controlling risks from fire and explosion due to dangerous substances.</td>
<td></td>
</tr>
<tr>
<td>Electricity at Work Regulations 1989</td>
<td>Control of exposure to electricity</td>
<td></td>
</tr>
<tr>
<td>Health and Safety (Consultation with Employees) Regulations 1996</td>
<td>The provision of consultation for those employees who have no safety representative</td>
<td>HSCER</td>
</tr>
<tr>
<td>Health and Safety (Enforcing Authority) Regulations 1998</td>
<td>The demarcation between HSE and Local Authorities for enforcing health and safety law</td>
<td>HSEAR</td>
</tr>
<tr>
<td>Health and Safety at Work etc Act 1974</td>
<td>General duties to ensure health and safety of employees and others so far as is reasonably practicable</td>
<td>HSWA</td>
</tr>
<tr>
<td>Lifting Operations and Lifting Equipment Regulations 1998</td>
<td>Requirements regarding the use of lifting equipment</td>
<td></td>
</tr>
<tr>
<td>Management of Health and Safety at Work Regulations 1999</td>
<td>General management of health and safety including availability of health and safety advice and risk assessment</td>
<td>Management Regulations</td>
</tr>
<tr>
<td>Manual Handling Operations Regulations 1992</td>
<td>Control of risks from handling heavy and/or awkward loads</td>
<td></td>
</tr>
<tr>
<td>Noise at Work Regulations 1989</td>
<td>Control of exposure to noise</td>
<td></td>
</tr>
<tr>
<td>Personal Protective Equipment at Work Regulations 1992</td>
<td>Provision and use of personal protective equipment</td>
<td></td>
</tr>
<tr>
<td>Provision and Use of Work Equipment Regulations 1998</td>
<td>Machinery, vehicle and other work equipment suitability and safety, including safety helmets</td>
<td></td>
</tr>
<tr>
<td>Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995</td>
<td>Duties to report accidents, diseases and dangerous occurrences</td>
<td>RIDDOR</td>
</tr>
<tr>
<td>Safety Representatives and Safety Committees Regulations 1977</td>
<td>The right of employees to participate, be consulted and represented on health and safety issues, including the appointment of safety representatives by recognised trade unions</td>
<td>SRSCR</td>
</tr>
<tr>
<td>Work at Height Regulations 2005</td>
<td>Requirements regarding work at height and preventing falling objects – previously covered by CHSW</td>
<td>W@H</td>
</tr>
<tr>
<td>Workplace (Health, Safety and Welfare) Regulations 1992</td>
<td>General workplace issues, including some design requirements for commercial buildings</td>
<td>Workplace Regulations</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Title</th>
<th>Reference</th>
<th>Available from</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experiences of CDM-94 ISBN 0 86017 479 4</td>
<td>Report 171 CIRIA</td>
<td></td>
</tr>
<tr>
<td>CDM-94 training pack for designers ISBN 0 86017 501 4</td>
<td>C1 CIRIA</td>
<td></td>
</tr>
<tr>
<td>Designing for health and safety in construction ISBN 0 7176 0807 7</td>
<td>HSE Books</td>
<td></td>
</tr>
<tr>
<td>A guide to managing health and safety in construction ISBN 0 7176 0755 0</td>
<td>HSE Books</td>
<td></td>
</tr>
<tr>
<td>Health and Safety in Construction ISBN 0 7176 1143 4</td>
<td>HS(G) 150 HSE Books</td>
<td></td>
</tr>
<tr>
<td>CDM-94: the role of the client – construction information sheet No 39*</td>
<td>CIS39</td>
<td></td>
</tr>
<tr>
<td>CDM-94: the role of the co-ordinator – construction information sheet No 40*</td>
<td>CIS40</td>
<td></td>
</tr>
<tr>
<td>CDM-94: the role of the designer – construction information sheet No 41*</td>
<td>CIS41</td>
<td></td>
</tr>
<tr>
<td>CDM-94: the health and safety plan during the construction phase – construction information sheet No 43*</td>
<td>CIS43</td>
<td></td>
</tr>
<tr>
<td>CDM-94: the health and safety file – construction information sheet No 44*</td>
<td>CIS44</td>
<td></td>
</tr>
<tr>
<td>Having construction work done? – Duties of clients under CDM-94</td>
<td>MISC193</td>
<td></td>
</tr>
<tr>
<td>Management of health and safety at work – approved code of practice and guidance ISBN 0 7176 2488 9</td>
<td>L21 HSE Books</td>
<td></td>
</tr>
<tr>
<td>Managing contractors – a guide for employers ISBN 0 7176 1196 5</td>
<td>HSE Books</td>
<td></td>
</tr>
<tr>
<td>Guidance on the Health and Safety (Consultation with Employees) Regulations 1996 ISBN 0 7176 1234 1</td>
<td>L95 HSE Books</td>
<td></td>
</tr>
<tr>
<td>Successful health and safety management ISBN 07176 1276 7</td>
<td>HSG 65</td>
<td></td>
</tr>
<tr>
<td>RIDDOR explained. The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations Free leaflet ISBN 0 7176 2441 2</td>
<td>HSE31 (rev1) HSE Books</td>
<td></td>
</tr>
</tbody>
</table>

* Construction information sheets are also available on HSE’s website – http://www.hse.gov.uk/
## Appendix 7 Glossary of terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cleaning and maintenance work</td>
<td>CDM&lt;sup&gt;2006&lt;/sup&gt; applies to the cleaning of a structure using water or an abrasive at high pressure, or using corrosive or toxic substances. Designers’ duties also cover routine cleaning and maintenance of structures and the permanent fixtures and fittings of structures designed as a place of work can be done safely.</td>
</tr>
<tr>
<td>Client</td>
<td>Anyone who procures construction work or carries it out for themselves.</td>
</tr>
<tr>
<td>CONIAC</td>
<td>The Construction Industry Advisory Committee represents the views of all parts of the construction industry to the Health and Safety Commission.</td>
</tr>
<tr>
<td>Construction phase</td>
<td>The part of the project when construction work takes place, including on-site preparations and any demolition. The construction phase ends when construction work on the project finishes. It includesfitting out or commissioning, whether carried out by a contractor or the client, is in the construction phase. Remedial work and repairs carried out after the construction phase has finished are separate projects, and may be separately notifiable.</td>
</tr>
<tr>
<td>Construction phase health and safety plan</td>
<td>Written details of the management arrangements for the construction work.</td>
</tr>
<tr>
<td>Contractor</td>
<td>An organisation or individual who carries out or manages construction work as part of a business. It includes sub-contractors and clients doing work in-house.</td>
</tr>
<tr>
<td>Demolition/dismantling</td>
<td>The deliberate pulling down, destruction or taking apart of a structure, or a substantial part of a structure. It includes dismantling for re-erection or re-use. Demolition does not include operations such as making openings for doors, windows, services or removing non-structural elements such as cladding, roof tiles or scaffolding. Such operations may, however, form part of demolition or dismantling work when carried out alongside other activities.</td>
</tr>
<tr>
<td>Domestic client</td>
<td>A client where construction work is not related to their trade or business – usually on their own home.</td>
</tr>
<tr>
<td>Dutyholder</td>
<td>Someone who has duties under CDM&lt;sup&gt;2006&lt;/sup&gt;.</td>
</tr>
</tbody>
</table>
| Enforcing authority | HSE enforces<sup>50</sup> CDM<sup>2006</sup> if:  
- the work is notifiable;  
- the whole or part of the work is to the exterior of a building or structure;  
- HSE normally enforces health and safety law at the site where the work is taking place or there is no other work activity there;  
- the work is carried out in a segregated area and normal work has stopped; or where the local authority is the client.  
The local authority enforces CDM<sup>2006</sup> if none of the above conditions are met and where the people doing the work normally work on the premises. HSE or the local authority (usually the Environmental Health department) can provide further advice where necessary. |
| Fragile material | A surface or assembly liable to fail from the weight of anyone crossing, working, or falling on it (including the weight of anything that they may be carrying). Any surface or assembly may be fragile, particularly if incorrectly fixed, supported or specified. All tend to deteriorate with age, exposure to UV light and weathering. Typical fragile materials are roof lights, fibre cement sheets, corroded metal sheets, glass (including wired glass) and wood wool slabs. They present a risk to people installing the material, doing subsequent maintenance and crossing it to gain access to other parts of the structure, or plant situated on the roof. A test for fragility is set out in Advisory Committee for Roofwork Material Standards: (ACR (M)001: 2000). This can be ordered from: National Federation of Roofing Contractors, 24, Weymouth Street, London, WIN 4LX, Tel. 0207-436-0387. |
| Great Britain’s territorial sea | This normally extends 12 nautical miles from the low water mark. Special provision is made where there are estuaries and bays. |
| Hazard | Something with the potential to cause harm (this can include articles, substances, plant or machines, methods of work, the working environment and other aspects of work organisation). ACoP to regulation 3 of the Management Regulations provides further details. |

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<sup>50</sup> See the Health and Safety (Enforcing Authority) Regulations 1998 for further information.
### Glossary of terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health and safety file</td>
<td>Information which people, including clients, designers, co-ordinators, contractors and others involved in carrying out construction or cleaning work on the structure in the future are likely to need, but could not be expected to know.</td>
</tr>
<tr>
<td>Information pack</td>
<td>Information obtained from the client and designers, during the design and the early planning stages for use by other designers and contractors in bidding for or planning work.</td>
</tr>
<tr>
<td>Maintenance</td>
<td>The repair, renovation, upkeep, redecoration and high pressure cleaning with water or abrasives, or cleaning with corrosive or toxic substances of structures. The maintenance of services that are normally fixed to or within a structure is covered by CDM-94, but the maintenance of other fixed plant is not covered. The definitions of construction work and structure in regulation 2 provide more detail.</td>
</tr>
<tr>
<td>Project</td>
<td>A project includes all the preparation, design, planning, construction work and the clearance or preparation of the site or structure for use or occupation at its conclusion required to achieve the end result desired by the client. Many projects involve several structures. Where there are substantial breaks between phases it may be each phase can be treated as a separate project, but projects should not be artificially split to avoid notification and the duties that follow go with it.</td>
</tr>
<tr>
<td>Residual hazards/risks</td>
<td>The hazards/risks that remain after the design process.</td>
</tr>
<tr>
<td>Risk</td>
<td>The likelihood of potential harm from a hazard being realised. The extent of the risk depends on: (i) the likelihood of that harm occurring; (ii) the potential severity of that harm, ie of any resultant injury or adverse health effect; and (iii) the population which might be affected by the hazard, ie the number of people who might be exposed. (ACoP to regulation 3 of the Management Regulations provides further details).</td>
</tr>
<tr>
<td>Safely/Safety</td>
<td>Where these words are used on their own they should be read to include “without undue risk to health.” It is not meant to require that all risk is eliminated, but that it is reduced so far as is reasonably practicable.</td>
</tr>
<tr>
<td>Term contracts</td>
<td>These can either be treated as a single project or each block of work involved can be treated as a separate project. The regulations apply to all construction work involved whichever option is taken and suitable management arrangements always need to be in place.</td>
</tr>
<tr>
<td>Utilities</td>
<td>Utility companies carry out a variety of roles and they may fulfil more than one role on some projects. They normally arrange for work to be done and are in the best position to ensure that designers and contractors doing the work are competent. Utilities frequently operate on sites as designers and/or contractors. When they do so, they must provide the principal contractor with relevant information about hazards arising from their designs or operations, and about how the resulting risks are to be controlled. Similarly, they must be given relevant information on the risks to their health or safety arising from the construction work. This exchange of information is straightforward in most cases. They must understand that any work they carry out on site, or which affects activities on site, is part of the project; accept the authority of the principal contractor; consult with the principal contractor before arriving on site; and comply with any relevant site rules.</td>
</tr>
<tr>
<td>Work outside Great Britain</td>
<td>CDM applies to work carried out within Great Britain and certain activities in its territorial sea, for example, construction of an offshore wind farm. People working abroad have no duties under CDM, but the law still applies to clients in Britain who choose to use designers or others working abroad. Such clients must make sure that those they engage are competent; that health and safety issues are properly considered; and that the normal information is provided. Such matters can be covered in contracts.</td>
</tr>
</tbody>
</table>

NB — A number of other terms are defined in regulation 2 of CDM.
Purpose And Intended Effect

Issue

1. The Construction (Design and Management) (CDM) Regulations 1994 address the health and safety requirements at temporary and mobile construction projects including the way work is planned, organised and managed. The Regulations implement the requirements of Council Directive 92/57/EEC. Following their implementation in 1995, concerns have been raised that their undue complexity, coupled with the bureaucratic approach adopted by many dutyholders, obscured the underlying objectives. These views were supported by an industry wide consultation in September 2002 and have resulted in the decision to revise the current Regulations.

Objectives

2. The revised Regulations aim to reduce construction accidents and ill health by:
   - being clearer in order to make it easier for duty holders to know what is expected of them;
   - being flexible and accommodating the wide range of contractual arrangements to be found in the construction industry;
   - emphasising the need to plan and manage work rather than the bureaucracy associated with it;
   - emphasising the communication and co-ordination advantages of duty holders working in integrated teams; and
   - simplifying the way dutyholders assess competence.

Risk assessment

3. Construction work is inherently hazardous and the risks associated with these hazards are difficult to manage due to the constantly changing nature of the working environment. The following tables 1 to 3 show accident statistics that illustrate the degree of risk faced by all those who come into contact with construction activity:
Table 1: Number of fatal injuries to workers and members of the public 1994/95 to 2002/03

<table>
<thead>
<tr>
<th></th>
<th>96/97</th>
<th>97/98</th>
<th>98/99</th>
<th>99/00</th>
<th>00/01</th>
<th>01/02</th>
<th>02/03p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees</td>
<td>66</td>
<td>58</td>
<td>47</td>
<td>61</td>
<td>73</td>
<td>60</td>
<td>57</td>
</tr>
<tr>
<td>Self-employed</td>
<td>24</td>
<td>22</td>
<td>18</td>
<td>20</td>
<td>32</td>
<td>20</td>
<td>14</td>
</tr>
<tr>
<td>Members of the public</td>
<td>3</td>
<td>6</td>
<td>3</td>
<td>6</td>
<td>8</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>93</td>
<td>86</td>
<td>68</td>
<td>87</td>
<td>113</td>
<td>85</td>
<td>76</td>
</tr>
</tbody>
</table>

Table 2: Number of major injuries to workers and non-fatal injuries to members of the public 1994/95 to 2002/03

<table>
<thead>
<tr>
<th></th>
<th>96/97</th>
<th>97/98</th>
<th>98/99</th>
<th>99/00</th>
<th>00/01</th>
<th>01/02</th>
<th>02/03p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees</td>
<td>3227</td>
<td>3860</td>
<td>4289</td>
<td>4386</td>
<td>4303</td>
<td>4055</td>
<td>4098</td>
</tr>
<tr>
<td>Self-employed</td>
<td>827</td>
<td>466</td>
<td>367</td>
<td>363</td>
<td>405</td>
<td>540</td>
<td>682</td>
</tr>
<tr>
<td>Members of the public</td>
<td>405</td>
<td>339</td>
<td>378</td>
<td>403</td>
<td>316</td>
<td>381</td>
<td>259</td>
</tr>
</tbody>
</table>

Table 3: Number of over 3-day injuries to workers 1994/95 to 2002/03

<table>
<thead>
<tr>
<th></th>
<th>96/97</th>
<th>97/98</th>
<th>98/99</th>
<th>99/00</th>
<th>00/01</th>
<th>01/02</th>
<th>02/03p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees</td>
<td>8637</td>
<td>9756</td>
<td>9195</td>
<td>10159</td>
<td>9367</td>
<td>9100</td>
<td>8657</td>
</tr>
<tr>
<td>Self-employed</td>
<td>1029</td>
<td>509</td>
<td>381</td>
<td>345</td>
<td>429</td>
<td>595</td>
<td>608</td>
</tr>
</tbody>
</table>

Tables 4 to 6 show the proportion of accidents, of various degrees, broken down by kind of accident to workers and employees. These tables give an indication of the main reasons for accidents in the workplace.

Table 4: Percentage of fatal injuries to workers by kind of accident 1996/97 to 2002/03

<table>
<thead>
<tr>
<th></th>
<th>96/97</th>
<th>97/98</th>
<th>98/99</th>
<th>99/00</th>
<th>00/01</th>
<th>01/02</th>
<th>02/03p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Falls from a height²</td>
<td>56%</td>
<td>58%</td>
<td>60%</td>
<td>52%</td>
<td>44%</td>
<td>46%</td>
<td>46%</td>
</tr>
<tr>
<td>Struck by moving vehicle</td>
<td>11%</td>
<td>6%</td>
<td>12%</td>
<td>6%</td>
<td>16%</td>
<td>14%</td>
<td>7%</td>
</tr>
<tr>
<td>Struck by moving/falling object</td>
<td>12%</td>
<td>15%</td>
<td>12%</td>
<td>21%</td>
<td>10%</td>
<td>16%</td>
<td>15%</td>
</tr>
<tr>
<td>Trapped by something collapsing or overturning</td>
<td>7%</td>
<td>5%</td>
<td>5%</td>
<td>2%</td>
<td>17%</td>
<td>5%</td>
<td>7%</td>
</tr>
<tr>
<td>Other</td>
<td>14%</td>
<td>16%</td>
<td>11%</td>
<td>19%</td>
<td>12%</td>
<td>19%</td>
<td>24%</td>
</tr>
</tbody>
</table>

Table 5: Percentage of major injuries to employees by kind of accident 1996/97 to 2002/03

<table>
<thead>
<tr>
<th></th>
<th>96/97</th>
<th>97/98</th>
<th>98/99</th>
<th>99/00</th>
<th>00/01</th>
<th>01/02</th>
<th>02/03p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Falls from a height²</td>
<td>35%</td>
<td>37%</td>
<td>37%</td>
<td>36%</td>
<td>37%</td>
<td>30%</td>
<td>30%</td>
</tr>
<tr>
<td>Slips, trips or falls on the same level</td>
<td>19%</td>
<td>19%</td>
<td>20%</td>
<td>21%</td>
<td>21%</td>
<td>26%</td>
<td>26%</td>
</tr>
<tr>
<td>Struck by moving vehicle</td>
<td>3%</td>
<td>2%</td>
<td>3%</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>Struck by moving/falling object</td>
<td>21%</td>
<td>20%</td>
<td>18%</td>
<td>18%</td>
<td>18%</td>
<td>17%</td>
<td></td>
</tr>
<tr>
<td>Injured while handling, lifting or carrying</td>
<td>8%</td>
<td>9%</td>
<td>9%</td>
<td>10%</td>
<td>8%</td>
<td>10%</td>
<td>11%</td>
</tr>
<tr>
<td>Other</td>
<td>14%</td>
<td>13%</td>
<td>13%</td>
<td>13%</td>
<td>14%</td>
<td>14%</td>
<td>14%</td>
</tr>
</tbody>
</table>

1 Reported to all enforcing authorities. Figures for 2002/03 are provisional.

2 Non-fatal injury statistics before 1996/97 cannot be compared directly with earlier years because the system of reporting injuries changed in 1996 (RIDDOR 95).

3 Falls from a height includes falls from up to and including 2 metres, over 2 metres and height not known.
Table 6: Percentage of over-3-day injuries to employees by kind of accident 1996/97 to 2002/03

<table>
<thead>
<tr>
<th></th>
<th>96/97</th>
<th>97/98</th>
<th>98/99</th>
<th>99/00</th>
<th>00/01</th>
<th>01/02</th>
<th>02/03p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Falls from a height</td>
<td>12%</td>
<td>12%</td>
<td>14%</td>
<td>14%</td>
<td>14%</td>
<td>11%</td>
<td>9%</td>
</tr>
<tr>
<td>Slips, trips or falls on the same level</td>
<td>17%</td>
<td>17%</td>
<td>17%</td>
<td>18%</td>
<td>19%</td>
<td>22%</td>
<td>23%</td>
</tr>
<tr>
<td>Struck by moving vehicle</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>2%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Struck by moving/falling object</td>
<td>19%</td>
<td>18%</td>
<td>18%</td>
<td>19%</td>
<td>18%</td>
<td>16%</td>
<td>15%</td>
</tr>
<tr>
<td>Injured while handling, lifting or carrying</td>
<td>36%</td>
<td>36%</td>
<td>35%</td>
<td>34%</td>
<td>33%</td>
<td>35%</td>
<td>36%</td>
</tr>
<tr>
<td>Other</td>
<td>15%</td>
<td>16%</td>
<td>15%</td>
<td>13%</td>
<td>14%</td>
<td>15%</td>
<td>16%</td>
</tr>
</tbody>
</table>

**Total Cost Of Injuries In The Construction Sector**

4. The cost of RIDDOR reportable injuries has been estimated by multiplying the number of injuries by the appropriate unit cost. The average number of injuries for each category reported between 1996/97 and 2002/03 has been used to estimate the average annual cost of each type of injury over the appraisal period. The number of non-fatal injuries reported for workers under RIDDOR has been adjusted for under reporting using a reporting rate of 46%, estimated using the Labour Force Survey (LFS).

5. Non-fatal injuries to members of the public are not separated into the categories of major and over three day, so a range has been estimated. The upper bound assumes that all injuries to members of the public are major injuries and the lower bound assumes that all injuries to members of the public are over three day injuries. It has also been assumed that the reporting rate for injuries to members of the public is 100%.

6. The present value cost of reportable injuries in the construction industry is £5,399 to £5,500 million over the appraisal period.

7. Most minor (under three day) injuries and non-injury accidents are not reportable under RIDDOR, but they impose costs upon society and the proposed Regulations will have an impact on their frequency. To estimate the cost of these health and safety failures, the number of each type has been multiplied by the appropriate unit cost.

8. To estimate the number of minor injuries, the number of all injuries estimated using the LFS has been reduced by: (1) 6% to account for ‘don’t know’, ‘still off’ and ‘never returned’, and (2) the number of injuries leading to 4 or more days off work (equivalent to the number of over three day and major injuries). Note that LFS data is only available from 1997/98 to 2001/02.

9. The cost of minor injuries to the construction sector is £167 million over the appraisal period.

10. The number of non-injury accidents has been estimated using an injury/non-injury accident ratio estimated in a study by HSE’s Accident Prevention Advisory Unit (APAU, 1993). APAU found that the ratio of injury to non-injury accidents in the construction sector was 1:64. Multiplying the total number of injuries (corrected for under-reporting) by the injury/non-injury ratio and the unit
cost of non-injury accidents indicates that the annual cost of non-injury accidents is £9239 million over the appraisal period.

11. The present value cost of injuries including minor injuries and non-injury accidents in the construction sector is £14,804 to £14,905 million over the appraisal period.

12. The UK construction industry has no entry threshold, is highly fragmented, itinerant and casualised. The industry employs 6% of the working population, but accounts for 25% of fatal injuries and 16% of the major accidents. Its output amounts to £90 billion or 10% of GDP\(^4\).

### Options

#### Option 1: Do Nothing

13. The TMCS Directive must be implemented in UK domestic legislation, and this was done through the CDM 1994 Regulations and the Construction (Health, Safety and Welfare) Regulations 1996 (CHSWR) – supported respectively by ACoP/guidance and guidance only. Following their introduction, a number of early problems with the understanding and application of the CDM Regulations emerged and it was clear that the Regulations were not being as effective as intended, and that these issues needed to be resolved.

14. The number of accidents that occur in the construction industry remains disproportionately high, as do the subsequent costs, considering the proportion of work force employed, as outlined in the Risk Assessment section.

15. The Do Nothing Option is therefore not a viable option in terms of health and safety, neither is it economically viable.

#### Option 2: Revised Set Of Regulations Supported By A New Approved Code of Practice (ACoP) or Guidance

16. In considering how to address industry concerns over the CDM Regulations, and encourage productive compliance, HSE has considered (and subsequently tried) several alternative and non-regulatory means of remediying the situation. The first of these was early informal guidance from the Chief Inspector of Construction (the Nattrass Letter). Despite this intervention, problems remained and this led, as a next step, to an early review of the Regulations followed by consultation on, and revision of, the CDM ACoP in 2001. Although the revised ACoP was favourably received by the industry, it did not have the desired level of impact.

17. To encourage discussion of possible ways of radically improving health and safety a Discussion Document (DD) was published in September 2002. In part this asked industry for its views about the Regulations and their future. The conclusions drawn from the industry’s responses on these issues were that:

- earlier initiatives had not achieved the desired change in the industry’s approach;

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the CDM principles were generally supported, but the paperwork burden needed to be reduced as a lot of compliance effort was being wasted; and
there was a desire for a set of clear, simple, unambiguous and practical legislation (and supporting guidance) for the industry, which should remain focused on the underlying objective of saving life, avoiding injuries and maintaining health.

18. CONIAC concluded that the best way to deliver this change would be to revise the Regulations and supporting ACoP. This reflects the experience gained from the previous remedial actions, draws on the successful aspects of those measures and is regarded by industry as the only option that will satisfactorily address the issues raised, while retaining the generally accepted CDM principles, implementing the provisions of the TMCS Directive and incorporating Better Regulation principles.

Option 3: Retain the CDM 1994 Regulations and produce a revised Approved Code of Practice (ACoP) to further clarify the Regulations.

19. As stated above, the CDM Regulations 1994 have proved to be less effective than anticipated. The CDM ACoP was revised in 2001 and, while addressing the problems that had arisen, did not fundamentally change the industry’s perception that these were Regulations about ‘paperwork’ rather than good project management. As the key messages (active management, co-operation, communication within the design and construction teams and minimising bureaucracy) have not changed, a second revised ACoP alone is unlikely to be substantially more effective. Consequently, more fundamental changes are thought necessary, and so this option is unlikely to achieve the required effects and is not recommended.

20. The costs and benefits of this option are intertwined with those for the CDM Regulations in 1994. The costs of the revision would be similar to the costs of option 2, as a similar effect would need to be achieved in terms of a cultural change within the industry. The benefits of the CDM Regulations have already, in the most part, been realised, especially with the revision of the ACoP in 2001. Therefore we would estimate this option would only produce benefits of around 5 to 10% of the benefit of Option 2. A summary of the costs and benefits of Option 3, in contrast to Option 2, can be seen in the table below:

<table>
<thead>
<tr>
<th>Present Value Over Appraisal Period, £Millions</th>
<th>Annualised Value £Millions</th>
<th>Percentage of Option 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benefit of Option 3</td>
<td>979 to 2,170</td>
<td>114 to 252</td>
</tr>
<tr>
<td>Cost of Option 3</td>
<td>9,498 to 11,031</td>
<td>1,103 to 1,282</td>
</tr>
</tbody>
</table>

This table shows that the costs of option 3 are estimated to far outweigh the small benefits over the appraisal period.
21. The costs and benefits of a revised ACoP could not be quantified separately from the Regulations when the revision occurred in 2001 and that is still the case. For that reason Option 3 does not play a part in the remainder of the RIA.

**Information Sources and Background Assumptions**

22. Information used to estimate the costs and benefits of the CDM Regulations has been obtained from industry sources, representative organisations, the Department for Trade and Industry, ‘Improving health and safety in construction’\(^5\), Experian/CITB research, the Department for Transport’s Highways Economic Note no. 1 2002\(^6\), ‘The costs to Britain of workplace accidents and work-related ill health’\(^7\), and other sources within HSE.

23. Costs and non-health and safety benefits have been discounted using the Treasury recommended rate of 3.5%. Health and safety benefits have been uprated by 2% to account for increases in GDP and discounted at 3.5% producing an effective discount rate of 1.5%.

24. Costs and benefits have been calculated over a ten-year appraisal period from 2006 to 2015 and are given in 2003/04 prices.

25. Health and safety benefits have been estimated using unit values for the cost to society of fatal injuries, major injuries, over three day injuries, minor injuries and non-injury accidents\(^8\).

26. Some costs are opportunity costs reflected by lost output as a result of performing new duties. It has been assumed that the value of lost output is equal to the time spent carrying out the new duty multiplied by the average wage of the worker (adding 30% for non-wage labour costs including superannuation and employers’ National Insurance contributions). Wage rates have been taken from the New Earnings Survey 2003. The wage rates used are £15.60\(^9\) for contractors, £18.60\(^10\) for clients, and £16.90\(^11\) for designers.

27. Costs and benefits have been estimated using current compliance with duties set out in the proposed Regulations as the baseline and using the expected level of compliance estimated by

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\(^8\) Fatal injuries £1,336,810 major injuries £35,475, over three day injuries £5,046, minor injuries £307, and non-injury accidents £172. Unit costs are in 2003/04 prices.

\(^9\) Construction Managers.

\(^10\) Average of manager/ senior official £19.20 and production/ maintenance manager £18.27.

\(^11\) Average of architects £18.14 and design and development engineers £15.63.
HSE inspectors and staff. In the uncertainties section, costs and benefits are estimated assuming that there will be 100% compliance with the proposed Regulations.

28. There are three main thresholds for projects under CDM 1994: under 5 worker projects, other non-notifiable projects and notifiable projects. Under the proposed Regulations the under 5 worker category will be removed and these projects will be subject to the general requirements of the proposed Regulations. The definition of notifiable projects will remain unchanged and will be the single threshold for appointments and plans required under the proposed Regulations. For the purpose of estimation, costs have been estimated separately for non-notifiable under 5 worker projects, non-notifiable over 4 worker projects and notifiable projects.

Equity And Fairness

29. The ethnic and gender mix of the construction industry is generally accepted as being dominated by white males, with women and ethnic minorities being under-represented. Migrants and other socially and economically disadvantaged workers are likely to work in construction. Vulnerable groups have been specifically identified in HSE’s Construction Priority Programme, but HSE does not differentiate by migrant status and considers it counter productive to do so.

30. The proposed Regulations will apply equally to all ethnic groups, vulnerable groups, and to men and women alike. The proposed Regulations are unlikely to have a greater impact on any particular age group, on people with disabilities or on any particular area/region. Consequently, there is no evidence to suggest that the proposed Regulations will lead to inequity or unfairness when they are complied with.

Atypical workers

31. Many workers in the construction industry are self-employed and there are many who obtain their work through employment agencies. The available evidence (RIDDOR and LFS) indicates that injury rates to the self-employed are lower than those to employed workers. This conclusion appears to many to be counter intuitive, but even the IER report commissioned by UCATT says “it cannot be stated that self-employed construction workers are more at risk to fatal or major injuries.”

32. Many people incorrectly think that health and safety law does not cover self-employed workers. People may be self-employed, but if they work under the control of others, they are usually treated as employees under health and safety law. The CDM Regulations are deliberately drafted to address this issue and place responsibilities on everyone controlling workers to ensure the health and safety of those workers irrespective of their employment status. The proposed Regulations will not change this.
Benefits

Health And Safety Benefits

Option 1: Do Nothing

33. There are no additional benefits from this option.

Option 2: Revised Set Of Regulations Supported By A New ACoP or Guidance

Safety Benefits To Construction Workers

34. Two strategies have been used to estimate the safety benefits of the proposed Regulations: (1) a comparison of the injury statistics of the Engineering Construction Industry Association (ECIA) and the sector as a whole, and (2) an Influence Network approach.

Comparison with the Engineering Construction Industry Association’s Injury Rates

35. The Engineering Construction Industry Association (ECIA) is known to follow best practice and has injury rates lower than the construction sector as a whole. If the construction sector adopts best practice, as set out in the proposed Regulations, injury rates could potentially fall to the same levels as ECIA projects. Hence, the safety benefit of the proposed Regulations has been estimated as the value of accidents that would be prevented if the construction sector’s injury rate falls to the same level as ECIA’s injury rate.

36. Using data on all injuries reported under RIDDOR, the injury rate of the construction sector as a whole was 2.4 times worse than ECIA projects in 2002 and 2.1 times worse in 2003. Hence, if the construction sector injury rate falls to the same level as the ECIA injury rate (a fall of between 54% and 60%), the present value health and safety benefit of the proposed Regulations is £2,889 to £3,290 million (reportable injuries only) over the appraisal period. If minor injuries and non-injury accidents are included the present value benefit is £7,950 to £8,917 million over the appraisal period12.

12 RIDDOR Injuries and Injury Rates for ECIA

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Employees</th>
<th>RIDDOR Injuries</th>
<th>RIDDOR rate per 100000</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>36 273</td>
<td>176</td>
<td>485.2</td>
</tr>
<tr>
<td>2003</td>
<td>35 649</td>
<td>184</td>
<td>516.1</td>
</tr>
</tbody>
</table>

RIDDOR Injuries and Injury Rates for the Construction Sector excluding ECIA.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Employees</th>
<th>RIDDOR Injuries</th>
<th>RIDDOR rate per 100000</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>1 064 683</td>
<td>12 858</td>
<td>1,207.7</td>
</tr>
<tr>
<td>2003</td>
<td>1 089 800</td>
<td>12 150</td>
<td>1,114.9</td>
</tr>
</tbody>
</table>

Estimated benefits have been calculated as follows: the total cost of injuries in the construction (excluding ECIA) sector has been multiplied by one minus the ratio between the ECIA injury rate and the whole sector (excluding ECIA) injury rate. One minus the ratio between the ECIA injury rate and the whole sector (excluding ECIA) injury rate is the expected reduction in cost of injuries in the construction sector if the injury rate of the whole sector falls to the ECIA injury rate.
37. The estimates above have been calculated on the basis of 100% compliance. To account for compliance it has been assumed that the safety benefits of the proposed Regulations are related to the level of compliance with the duty on contractors to plan, manage and monitor their work\(^\text{13}\). This duty has been used because it is central to the proposed Regulations and it encompasses a number of other duties set out in the proposed Regulations. Under this assumption the expected safety benefit, given expected compliance, is £290 to £897 million (reportable injuries only) or £795 to £2,432 million (reportable injuries, minor injuries and non-injury accidents)\(^\text{14}\).

38. The following caveats should be placed on these estimated benefits: (1) ECIA projects are not a representative sample of all construction projects\(^\text{15}\), so if the type of project is a factor influencing the injury rate this may bias the estimated benefits (benefits could be over or under estimated); (2) it has been assumed that the distribution of injury types is the same for ECIA as for the whole sector; (3) reporting rates are expected to be higher for ECIA projects than non-ECIA projects, so estimated benefits will be biased and underestimated; and (4) the employment figures used to calculate injury rates are less reliable for the ECIA rates than for the sector as a whole.

Influence Network Approach

39. The second approach used is the influence network\(^\text{16}\) approach that provides a framework in which to consider the wide variety of factors influencing health and safety performance. It should be noted that the influence network only provides a framework for discussion, so any output is based on the perceptions of those attending the forum and not quantitative data.

40. A forum was held within HSE to consider the impact of the proposed Regulations on health and safety performance (assuming 100% compliance). The baseline for the discussion was a forum held previously within HSE on the health and safety performance of the construction sector\(^\text{17}\).

41. Using the relationship between the risk index and the level of risk set out in ‘Improving health and safety in construction, Phase 2, Volume 6’, the reduction of risk in the construction sector as a result of the proposed Regulations is estimated at 34%. Assuming that risk is directly related to the total cost of injuries (i.e. a 10% reduction in risk leads to a 10% reduction in the cost of injuries and accidents in the construction sector), the health and safety benefits of the proposed Regulations have been estimated at £1,822 to £1,856 million (reportable injuries only) or £4,997 to £5,031 million (including minor injuries and non-injury accidents) over the appraisal period.

\(^{13}\) The current compliance level is a best-estimate based on HSE Inspectors’ experiences.

\(^{14}\) This cost has been calculated as follows: the safety benefit estimated assuming 100% compliance has been multiplied by the expected increase in compliance (for contractors plan, managing and monitoring) divided by the current level of non-compliance.

\(^{15}\) There are almost no self employed ECIA members, ECIA projects include power stations and other large construction projects, and there are higher levels of unionisation among ECIA members than non-ECIA members.

\(^{16}\) For further information see: [http://www.hse.gov.uk/research/rrhtm/rr235.htm](http://www.hse.gov.uk/research/rrhtm/rr235.htm)

\(^{17}\) For further information see: [http://www.hse.gov.uk/research/rrhtm/rr231.htm](http://www.hse.gov.uk/research/rrhtm/rr231.htm) Page 46.
42. The estimates above have been calculated on the basis of 100% compliance. To account for compliance it has been assumed that the safety benefits of the proposed Regulations are related to the level of compliance with the duty on contractors to plan, manage and monitor their work\(^\text{18}\). This duty has been used because it is central to the proposed Regulations and it encompasses a number of other duties set out in them. Under this assumption the expected safety benefit, given expected compliance, is £182 to £506 million (reportable injuries only) or £500 to £1,372 million (reportable injuries, minor injuries and non-injury accidents)\(^\text{19}\).

Health Benefits To Construction Workers

43. It has not been possible to estimate the benefits from a reduction in the incidence of ill health although they could be substantial. To indicate the cost of ill health in the construction sector, ‘The costs to Britain of workplace accidents and work-related ill health in 1995/96’ estimated the cost of ill health in construction at £0.70 to £0.75 billion in 1995/96 (1995/96 prices).

Health And Safety Benefits From Designers Considering The Risk With The Intended Use Of Buildings Designed As Places Of Work

44. Health and safety benefits are expected to flow from explicitly requiring designers to consider the risks associated with structures intended as a place of work. In some cases, building design is a factor contributing to injuries. For instance, the position of lighting can affect the use of ladders in a building and therefore the risks posed to workers maintaining a building. It has not been possible to quantify the health and safety benefits flowing from this requirement because it is not possible to identify the number of injuries (outside of construction personnel) in which building design is a contributory factor.

Other Benefits

Productivity Improvements\(^\text{20}\)

45. The focus of the proposed Regulations aligns closely with other initiatives to improve project management and team working in construction. One element of this has been the Movement for Innovation that has tested out the effect of the practical application of these principles on demonstration projects. They wanted to measure the practical benefits of the application of:

- innovative ways of delivering projects, processes and products;

\(^{18}\) The current compliance level is a best-estimate based on HSE Inspectors’ experiences.

\(^{19}\) This benefit has been calculated as follows: the safety benefit estimated assuming 100% compliance has been multiplied by the expected increase in compliance (for contractors plan, managing and monitoring) divided by the current level of non-compliance.

\(^{20}\) The cost saving from reduced project cost has been calculated as follows: the value of the construction sector has been multiplied by the expected reduction in project costs and the expected increase in the level of compliance with the duty on contractors to plan, manage and monitor. The duty to plan, manage and monitor has been used because many of the productivity improvements expected to result from the proposed regulations are intimately linked with planning, managing and monitoring.
• Respect for People;
• sustainable development;
• measurement of improvements based on clear benchmarks; and
• involving the whole supply chain in the whole process at the earliest possible stage,
  preferably design.

46. The data from the demonstration projects has shown that, compared with the rest of the industry,
demonstration projects:

• are more predictable in terms of cost and time;
• are more productive than the industry average;
• are safer;
• have less impact on the environment; and
• achieve higher customer satisfaction.

47. If the whole industry achieved the same results as the ‘Demonstrations’ then project costs could
potentially fall by 6%. If it is assumed that implementation of the proposed Regulations leads to
a 3% reduction in project costs for projects where there is currently insufficient attention by
clients, designers and contractors to planning, managing and monitoring - then the present value
cost saving from reduced project costs for all projects is £1,162 to £3,486 million over the
appraisal period.

Amendment To The Management Of Health And Safety at Work Regulations 1999

48. There may be additional benefits from the amendments to the Management of Health and Safety
at Work Regulations 1999 (see ‘other costs’ section below). It has not been possible to quantify
these benefits.

Cost Savings

Checking Competence\textsuperscript{22}

49. Research commissioned by HSE is underway to develop guidelines for the selection of
competent designers and contractors. These are likely to be based on current good practice and
existing schemes for assessing competency and ability to allocate adequate resource. It is
expected that they will be particularly helpful to one-off or occasional clients and SMEs.

50. As a result of the guidelines, the cost to clients of ensuring designer and contractor competence
is expected to fall. Designers and contractors should already be competent to fulfil the functions
for which they are seeking appointment. Information provided to clients should be simpler and
based on designer/contractor accreditation (thereby minimising the number of inappropriate

\textsuperscript{21} \url{http://www.constructingexcellence.org.uk/productivity/demonstration.jsp?level=0}

\textsuperscript{22} This cost has been calculated as follows: the number of projects has been multiplied by the reduction in the
number of hours expected for this duty to be performed, the client wage (adding 30% for non-wage labour costs)
and the level of compliance with this duty.
applications and enabling easy weeding out by clients). The proposed guidelines place the onus on the potential appointee to gather and provide supporting evidence for the client and should reap dividends in reduced paperwork and costs.

51. The cost benefit analysis for CDM 1994 estimated that checking competence would take clients 4 hours for over 4 worker non-notifiable projects and 12 hours for notifiable projects. It has been estimated that under the proposed Regulations this should fall by half for both types of project. With compliance estimated at 15% to 20% for over 4 worker non-notifiable projects and 30% to 35% for notifiable projects, the present value cost saving for clients is estimated at between £6.4 and £8.6 million for over 4 worker non-notifiable projects and £115.7 to £135.0 million for notifiable projects over the appraisal period.

52. These are policy cost savings and are included in the net costs.

**Total Benefits**

**Option 1: Do Nothing**

53. No benefits are expected for option 1.

**Option 2: Revised Set Of Regulations Supported By A New ACoP or Guidance**

<table>
<thead>
<tr>
<th>Table 7: Benefits Of Option 2</th>
<th>Present Value of Benefits Over Appraisal Period, £M</th>
<th>Annualised Benefits £M</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Safety Benefits</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ECIA Approach</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reportable Injuries</td>
<td>290 to 897</td>
<td>34 to 104</td>
</tr>
<tr>
<td>All Injuries and Accidents</td>
<td>795 to 2,432</td>
<td>92 to 283</td>
</tr>
<tr>
<td>Influence Network Approach</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reportable Injuries</td>
<td>182 to 506</td>
<td>21 to 59</td>
</tr>
<tr>
<td>All Injuries and Accidents</td>
<td>500 to 1,372</td>
<td>58 to 159</td>
</tr>
<tr>
<td><strong>Injuries and Ill Health in the Workplace</strong></td>
<td>Unquantified</td>
<td>Unquantified</td>
</tr>
<tr>
<td><strong>Health Benefits</strong></td>
<td>Unquantified</td>
<td>Unquantified</td>
</tr>
<tr>
<td><strong>Other Benefits</strong></td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Productivity Improvements</strong></td>
<td>1,162 to 3,486</td>
<td>135 to 405</td>
</tr>
<tr>
<td><strong>Total Benefits Using ECIA Approach</strong></td>
<td>1,957 to 5,918</td>
<td>227 to 688</td>
</tr>
</tbody>
</table>

**Costs**

**Business Sectors Affected**

54. The British Construction industry is extremely diverse with client, contractors and designers ranging from the self-employed to multi-national companies. There are around 168,000 contractors, 95% of which are small/micro sized companies; 18,000 design firms and many clients. It is not possible to characterise clients because everyone in Britain is potentially a construction client and could be an individual or an organisation from any business sector (this
includes local authorities, school governors, insurance companies and project originators on Private Finance Initiative projects). It follows that all business sectors are likely to be affected, at some stage, by the proposed Regulations as they are by the current Regulations.

**Total Compliance Costs To Business**

**Option 1: Do Nothing**

55. There are no additional costs from this option.

**Option 2: Revised Set Of Regulations Supported By A New ACoP or Guidance**

56. There are two sets of costs resulting from the proposed Regulations: (1) the costs of compliance with new duties in addition to CDM 1994, and (2) the costs of compliance with existing duties under CDM 1994.

**Cost of Compliance with Additional Duties**

*Familiarisation*²⁴

57. There are three main groups that will be required to familiarise themselves with the proposed Regulations: contractors, designers and clients.

58. Familiarisation costs for contractors have been estimated on the following basis: (1) there are 168,000 contractors; (2) it has been assumed that familiarisation will take 8 hours per contractor; (3) those familiarising themselves receive the contractor wage; (4) 19,000 new contractors enter the market each year²⁵; (5) the estimated expected level of compliance is 60% to 70%²⁶; and (6) it has been estimated that 60% to 70% of new firms will face no additional familiarisation costs because they would have familiarised themselves with CDM 1994 if the proposed Regulations were not introduced. The present value cost of familiarisation for contractors is estimated at £14.3 to £21.8 million over the appraisal period.

59. Familiarisation costs for designers have been estimated with the following information: (1) there are 18,000 design firms²⁷; (2) it has been assumed that familiarisation will take 6 hours per firm;

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²³ The current compliance level is a best-estimate based on HSE Inspectors’ experiences.

²⁴ Familiarisation costs have been estimated by multiplying the number of firms by the length of time required for familiarisation, the average wage (adding 30% for non-wage labour costs) and the expected level of compliance.

Added to this is the cost of familiarisation for new firms: the expected number of new firms per year multiplied by the length of time required for familiarisation, the average wage (adding 30% for non-wage labour costs) and the expected increase in the level of compliance (note, some new firms are expected to be compliant i.e. they will face no additional costs for familiarisation because they would familiarise themselves with CDM 1994 if the proposed regulations are not implemented).


²⁶ The current compliance level is a best-estimate based on HSE Inspectors’ experiences and industry sources.

(3) the person familiarising himself receives the average designer wage; (4) it has been estimated that the turnover of firms is 5% per year; (5) the estimated expected level of compliance is 50%\textsuperscript{28}; and (6) it has been estimated that 50% of new firms will face no additional familiarisation costs because they would have familiarised themselves with CDM 1994 if the proposed Regulations were not introduced. The present value cost of familiarisation for designers is estimated at £1.2 million over the appraisal period.

60. It has not been possible to quantify the cost to clients of familiarising themselves with the proposed Regulations because the number of clients per year is unknown. Further analysis is provided in the uncertainties section.

61. This is an implementation cost.

**Designers**

**Consider The Risks With Buildings Designed As Places Of Work\textsuperscript{28}**

62. Under the proposed Regulations, designers will be required to consider risks with the intended use of buildings designed as places of work. This may include, but is not limited to, considering the position of light fittings, access to cables and ventilation, and the inclusion of fragile materials. The cost estimate has been calculated with the following information: (1) the total cost of designers is £13 billion per year; (2) 65% of designer costs is the design stage\textsuperscript{29}; (3) it has been assumed that the design stage will increase in cost by between 3% and 5%; (4) the annual output of contractors is £77bn of which £50bn\textsuperscript{30} is the value of work designed as a place of work; (5) it has been estimated that the level of compliance with this requirement is 30% to 35%\textsuperscript{31} and that this will increase to 45%; and (6) it has been assumed that the cost of designers considering the risk with intended use of workplaces will fall by 20% each year as designers' experience of considering the risks arising from their designs increases.

63. The present value cost of this duty is estimated at between £67.0 and £167.5 million over the appraisal period.

64. This is a policy cost.

\textsuperscript{28} This cost has been calculated as follows: the total value of design work has been multiplied by the proportion of design costs that constitute the design stage, the expected increase in the cost of the design stage as a result of the proposed regulations, the proportion of construction output which is designed as a place of work and the expected increase in the level of compliance with this duty.

\textsuperscript{29} Source: 18 design firms\textsuperscript{26} were consulted to arrive at this estimate.

\textsuperscript{30} Construction output minus infrastructure and housing. Source: DTI/ N Crisp.

\textsuperscript{31} The current compliance level is a best-estimate based on HSE Inspectors’ experiences.
**Contractors**

*Plan, Manage And Monitor Their Work*[^32]

65. Under the proposed Regulations, contractors will have a duty to plan, manage and monitor their work to ensure their workers are safe and that the work is carried out in accordance with the construction phase plan. This means taking account of risk assessments carried out under the Management Regulations, and complying with other relevant health, safety and welfare requirements.

66. The cost of this requirement has been estimated using the following information: (1) it has been estimated that 45% to 50% of contractors are compliant with the proposed duty and has been estimated to increase to 55% to 60%[^33]; (2) the total value of contractor work is £77 billion per year; (3) it has been estimated that the proportion of project costs spent on planning is 3%; and (4) it has been assumed that planning costs will increase by 30%. The present value cost of this duty is estimated at £298.3 to £894.8 million over the appraisal period.

67. This is a policy cost.

**Under 5 Worker Non-Notifiable Projects**

68. The proposed Regulations will bring under 5 worker non-notifiable projects within the scope of the proposed Regulations. The cost estimates below have been made on the basis that there are 200,000 under 5 worker non-notifiable projects in the UK per year.

*Ensure Arrangements To Manage Health And Safety*[^34]

69. The client has a duty to ensure that there are arrangements to manage health and safety. This means ensuring that the requirements for running the project take account of any risks to the public, their employees, customers and those of the site occupier. Clients also need to consider the roles, functions and responsibilities of the project team members and how they interrelate; how communication, co-ordination and co-operation will be facilitated; the format of the health and safety file (to ensure it is suitable for them); and how the project will be monitored and reviewed.

70. The cost to clients of this duty has been estimated with the following information: (1) it has been estimated that there is 10% to 15% compliance with this requirement that will increase to

[^32]: This cost has been calculated as follows: the total value of contractor work has been multiplied by the estimated proportion of project costs spent on planning, the expected increase in the proportion of project costs spent on planning and the expected increase in the level of compliance with this duty.

[^33]: The current compliance level is a best-estimate based on HSE Inspectors' experiences.

[^34]: This cost has been calculated as follows: the number of projects has been multiplied by the number of hours expected for this duty to be performed, the client wage (adding 30% for non-wage labour costs) and the expected increase in the level compliance with this duty.
between 25% and 30%\textsuperscript{35}; and (2) it has been estimated that it takes between 1 and 2 hours for clients to perform this task. The present value cost of clients ensuring there are arrangements for health and safety is estimated at £4.3 to £17.1 million over the appraisal period.

71. This is a policy cost.

\textit{Check The Competence Of Designers And Contractors}\textsuperscript{36}

72. The client has a duty to ensure that their appointees are competent. The intention is to make it easier to assess competence and to reduce the cost of this duty (see below for further information). The cost to clients of checking competence has been estimated with the following information: (1) it has been estimated that there is 10% to 15% compliance with this requirement that will increase to between 25% and 30%; and (2) it has been estimated that it takes between 0.5 and 1 hours for contractors to perform this task. The present value cost of checking competence is estimated at £2.1 to £8.6 million over the appraisal period.

73. This is a policy cost.

\textit{Ensuring Information Is Available}\textsuperscript{37}

74. The client has a duty to provide information they have, or could reasonably obtain, about the state of the land or premises that may need to be considered in complying with health and safety regulations. The cost to clients of ensuring information is available has been estimated with the following information: (1) it has been estimated that there is 8% to 12% compliance with this requirement that will increase to between 15% and 20%\textsuperscript{38}; and (2) it has been estimated that it takes between 0.5 and 3 hours for clients to perform this task. The present value cost to clients of providing information is estimated at £0.6 to £15.4 million over the appraisal period.

75. This is a policy cost.

\textsuperscript{35} The current compliance level is a best-estimate based on HSE Inspectors’ experiences, the increase in compliance builds on this.

\textsuperscript{36} This cost has been calculated as follows: the number of projects has been multiplied by the number of hours expected for this duty to be performed, the contractor wage (adding 30% for non-wage labour costs) and the expected increase in the level compliance with this duty.

\textsuperscript{37} This cost has been calculated as follows: the number of projects has been multiplied by the number of hours expected for this duty to be performed, the client wage (adding 30% for non-wage labour costs) and the expected increase in the level compliance with this duty.

\textsuperscript{38} The current compliance level is a best-estimate based on HSE Inspectors’ experiences, the increase in compliance builds on this.
Information and Training Costs

76. The cost to contractors of providing information and training has been estimated with the following information: (1) it has been estimated that there is 15% to 20% compliance with this requirement that will increase to between 25% and 30%; (2) it has been estimated that it takes between 0.5 and 2 hours for contractors to perform this task; and (3) it has been estimated that 20% of projects have specific hazards that require information and training. The present value cost to contractors of information and training is estimated at £0.2 to £2.1 million over the appraisal period.

77. This is a policy cost.

Over 4 Worker Non-Notifiable Projects and Notifiable Projects

78. The cost estimates below have been made on the basis that there are 100,000 over 4 worker non-notifiable projects per year and 300,000 notifiable projects per year. (200,000 projects are notified to HSE each year but notification is subject to under reporting).

Ensure Arrangements To Manage Health And Safety

79. The cost to clients of over 4 worker non-notifiable projects of ensuring that there are arrangements to manage health and safety has been estimated with the following information: (1) it has been estimated that there is 15% to 20% compliance with this requirement that will increase to between 25% and 30%; and (2) it has been estimated that it takes between 1 and 2 hours for clients to perform this duty. The present value cost of clients ensuring there are arrangements for health and safety is estimated at £1.1 to £6.4 million over the appraisal period.

80. For notifiable projects it has been estimated that 20% to 25% of projects are compliant increasing to between 35% and 40%, and that it will take 8 hours for clients to perform these tasks. The present value cost is estimated at £51.4 to £102.8 million over the appraisal period.

81. These are policy costs.

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39 This cost has been calculated as follows: the number of projects has been multiplied by the proportion of projects where specific hazards require information and training, the number of hours expected for this duty to be performed, the client wage (adding 30% for non-wage labour costs) and the expected increase in the level compliance with this duty.

40 The current compliance level is a best-estimate based on HSE Inspectors’ experiences, the increase in compliance builds on this.

41 This cost has been calculated as follows: the number of projects has been multiplied by the number of hours expected for this duty to be performed, the client wage (adding 30% for non-wage labour costs) and the expected increase in the level compliance with this duty.

42 The current compliance level is a best-estimate based on HSE Inspectors’ experiences, the increase in compliance builds on this.
Removal Of The Exemption From Civil Liability

82. Breaches of CDM 1994 carry no civil liability, except in relation to the client’s duty to ensure that construction work does not start without a health and safety plan and the principal contractor’s duty to ensure that only authorised persons are allowed into premises where construction work is being carried out. Breaches of the proposed Regulations carry no civil liability in relation to people who are not an employee, except in relation to the client’s duty to ensure construction work does not start without a construction phase plan and the principal contractor’s duty to ensure the contractor has the information needed to carry out the construction work safely. No additional costs are expected from the wider removal of the exemption from civil liability in relation to employees, because the Management of Health and Safety at Work Regulations 1999 (which apply to all construction projects) have already been amended to remove such an exemption.

Cost of Compliance with Existing Duties under CDM 1994

83. In theory, if compliance with current duties is 100%, there should be no additional costs for complying with CDM 1994. The cost set out below reflect the current lack of compliance with CDM 1994 and therefore costs that may be imposed upon society by the proposed Regulations increasing the level of compliance with duties set out in CDM 1994. It should be noted that these costs have previously been estimated in the Cost Benefit Analysis for CDM 1994.

Designers

CDM Training\(^{43}\)

84. The cost of designers receiving training to become CDM competent has been estimated using the following information: (1) there are 225,000 designers\(^{44}\); (2) it has been estimated that 40% of designers have received CDM training and that an additional 5% to 10% will receive CDM training as a result of the proposed Regulations; (3) it has been estimated that the turnover of designers is 5% per year; (4) it has been assumed that 40% of new designers will receive CDM training without the implementation of the proposed Regulations; (5) the cost of training is

\(^{43}\) The cost of CDM training is formed of two components: the one off cost of training current designers and the ongoing cost of training new designers.

The one off cost has been calculated as follows: the number of designers has been multiplied by the proportion of designers not trained but are expected to be trained following implementation of the proposed regulations, and the sum of the lost output from receiving the training and the cost of the training.

The cost of training new designers has been calculated as follows: the number of designers has been multiplied by the annual turnover of designers, the proportion of designers who would not have received CDM training prior to the implementation of the proposed regulations but will as a result of the proposed regulations, and by the sum of the lost output from receiving the training (reflected in the wage of the designers, with additional non-wage labour costs) and the cost of the training.

\(^{44}\) Source: Experian/CITB research.
between £50\textsuperscript{45} and £230\textsuperscript{46} for a one day training course; and (6) designers receive the average designer wage which reflects the lost output of the designer whilst on the training course. The present value cost of CDM training for designers is estimated at £3.6 to £12.7 million over the appraisal period.

85. This is a policy cost.

**Over 4 Worker Non-Notifiable Projects and Notifiable Projects**

**Co-ordinator**\textsuperscript{47}

86. It is proposed that co-ordinators will:

- advise and assist clients to comply with their duties;
- co-ordinate design work, planning and other preparation for construction;
- liaise with the principal contractor about design changes during construction;
- notify HSE about the project;
- locate or commission the information needed by designers and contractors; and
- produce or update the health and safety file.

87. This role is the successor to that of the Planning Supervisor. Planning Supervisors were estimated to cost 1.1\% of project costs in the Evaluation of the Construction (Design and Management) Regulations 1994\textsuperscript{48}. In addition, the following information has been used to estimate costs: (1) it has been estimated that there is 15\% to 20\% compliance among over 4 worker non-notifiable projects (increasing to 30\% to 35\%) and 60\% to 65\% compliance among notifiable projects (increasing to 70\% to 75\%\textsuperscript{49}; (2) the value of over 4 worker non-notifiable projects is £22 billion per year; (3) the value of notifiable projects is £50 billion per year; and (4) it has been estimated that clients take 2.5 hours to appoint a co-ordinator. The present value cost of co-ordinators for over 4 worker non-notifiable projects is estimated at £213.7 to £427.3 million and £244.7 to £723.2 million for notifiable projects over the appraisal period.

88. These are implementation costs.

\textsuperscript{45} Source: BPS Consulting Website.  
\textsuperscript{46} Source: SERCO Website.  
\textsuperscript{47} This cost has been calculated by adding the following: (1) Appoint co-ordinator: the number of projects multiplied by the number of hours expected for a co-ordinator to be appointed, the client wage (adding 30\% for non-wage labour costs) and the expected increase in the level compliance with this duty, and, (2) co-ordinator: the value of construction work multiplied by the cost of co-ordinators as a proportion of project costs and the expected increase in the level compliance with this duty.  
\textsuperscript{48} [http://www.hse.gov.uk/research/crr.htm/1997/crr97158.htm](http://www.hse.gov.uk/research/crr.htm/1997/crr97158.htm)  
\textsuperscript{49} The current compliance level is a best-estimate based on HSE Inspectors’ experiences, the increase in compliance builds on this.
Check The Competence Of Co-ordinators, Designers And Contractors

89. The cost to clients of checking the competence of co-ordinators, designers and contractors has been estimated using the following information for over 4 worker non-notifiable projects: (1) it has been estimated that there is 15% to 20% compliance with this requirement increasing to between 30% and 35%; and (2) it has been estimated that it takes 2 hours for clients to perform this task. The present value cost of clients checking competence is estimated at £4.3 to £8.6 million over the appraisal period.

90. For notifiable projects is has been estimated that compliance is 30% to 35% (increasing to between 45% and 50%) and the checks take 6 hours to perform. The present value cost is estimated at £38.6 to £77.1 million over the appraisal period.

91. These are policy costs.

Ensuring Information Is Available

92. The cost to clients of ensuring information is available for over 4 worker non-notifiable projects has been estimated using the following information: (1) it has been estimated that there is 15% to 20% compliance with this requirement (increasing to between 25% and 30%); and (2) it has been estimated that it takes 12 hours for clients to perform this task. The present value cost for over 4 worker non-notifiable projects is estimated at £12.9 to £38.6 million over the appraisal period.

93. For notifiable projects it has been estimated that 25% to 30% of projects are compliant (increasing to between 40% to 45%) and that it takes 24 hours for this task to be performed. The present value cost for notifiable projects is estimated at £154.2 to £308.5 million over the appraisal period.

94. These are policy costs.

Information and Training Costs

95. The cost to contractors of information and training has been estimated using the following information for over 4 worker non-notifiable projects: (1) it has been estimated that there is 15% to 20% compliance with this requirement (increasing to between 25% to 30%); (2) it has been estimated that...
estimated that it takes 8 hours for contractors to perform this task; and (3) it has been estimated that 20% of projects require information and training. The present value cost to contractors of information and training on over 4 worker non-notifiable projects is estimated at £1.4 to £4.3 million over the appraisal period.

96. For notifiable projects it has been estimated that compliance is 25% to 30% (increasing to between 40% to 45%) and that performing this duty takes 16 hours to perform. The present value cost to contractors is estimated at £17.1 to £34.2 million over the appraisal period.

97. These are policy costs.

Worker Involvement

98. Under this duty, principal contractors are required to consult with their employees. The cost to contractors of this duty has been estimated using the following information: (1) it has been estimated that there is 20% to 25% compliance with this duty on notifiable projects (increasing to between 25% to 30%) and 15% to 20% compliance on non-notifiable over 4 worker projects (increasing to between 20% to 25%)54; and (2) it has been estimated that it takes between 4 and 12 hours for contractors to perform this task. The present value cost to contractors is estimated at £0 to £21.3 million for non-notifiable over 4 worker projects and £0 to £64.0 for notifiable projects, over the appraisal period.

99. This is a policy cost.

Other Duties

100. No additional costs are expected for appointing a principal contractor because compliance is estimated at 100%.

101. No additional costs are expected for the following duties to be performed: provision for health and safety and notification of a project.

Costs to HSE

Option 1: Do Nothing

102. There are no additional costs from this option.

---

53 This cost has been calculated as follows: the number of projects has been multiplied by the number of hours expected for this duty to be performed, the contractor wage (adding 30% for non-wage labour costs) and the expected increase in the level of compliance with this duty.

54 The current compliance level is a best-estimate based on HSE Inspectors’ experiences, the increase in compliance builds on this.
Option 2: Revised Set Of Regulations Supported By A New ACoP or Guidance

**Inspector Training**

103. All 150 construction inspectors will undertake training to familiarise themselves with the proposed Regulations. The cost of training has been estimated under the following assumptions: (1) training lasts 8 hours; (2) the only cost of the training is lost output; and (3) the average inspector’s salary is equivalent to a Band 3 inspector’s salary. The present value cost of inspector training has been estimated at £40,000.

104. This is an implementation cost.

**Evaluation of the CDM Regulations**

105. As part of the policy making process there will be an evaluation of the proposed Regulations. There are two stages to the evaluation: collecting baseline data and an impact evaluation 5 years after the proposed Regulations have been implemented. It has been estimated that each stage will cost between £75,000 and £100,000. This has a present value of between £140,000 and £180,000 over the appraisal period.

106. This is an implementation cost.

**Policy Development**

107. As part of the policy making process, the proposed Regulations will be monitored and evaluated. It has been estimated that the cost of policy development will be equivalent to the cost of half a Band 4 member of staff each year of the appraisal period. This has a present value cost of £160,000 to £180,000 over the appraisal period.

108. This is an implementation cost.

**Other Costs**

**Option 1: Do Nothing**

109. There are no additional costs from this option.

---

55 The cost of training HSE’s inspectors has been calculated as follows: the number of inspectors has been multiplied by the number of hours of training expected and the typical inspector wage (adding 30% for non-wage labour costs).

56 This cost has been calculated as follows: the salary range for a Band 4 member of staff (including non-wage labour costs) for 2002 has been uprated to 2003 prices using the New Earnings Survey earnings index and halved.
Option 2: Revised Set Of Regulations Supported By A New ACoP or Guidance

Amendment To The Management Of Health And Safety at Work Regulations 1999

110. The proposed Regulations are also being used as a vehicle to amend the Management of Health and Safety at Work Regulations 1999. The effect of the amendments is to require the self-employed to:

- apply the principles of prevention and protection; and
- make and give effect to arrangements for planning, control and monitoring of the arrangements.

111. It has not been possible to estimate these costs.

Environmental Impacts

112. No environmental impacts are expected from either option.

Total Costs To Society

Option 1: Do Nothing

113. There are no additional costs from this option.

Option 2: Revised Set Of Regulations Supported By A New ACoP or Guidance

<table>
<thead>
<tr>
<th>Table 8: Costs Of Option 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Present Value Over</strong></td>
</tr>
<tr>
<td><strong>Appraisal Period, £M</strong></td>
</tr>
<tr>
<td>-----------------------------</td>
</tr>
<tr>
<td><strong>Additional Duties</strong></td>
</tr>
<tr>
<td>Familiarisation</td>
</tr>
<tr>
<td>Contractors</td>
</tr>
<tr>
<td>Designers</td>
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<tr>
<td>Clients</td>
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<tr>
<td>Designers:</td>
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<tr>
<td>Consider Risks With Intended Use</td>
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<tr>
<td>Contractors:</td>
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<tr>
<td>Plan, Manage And Monitor Their Work</td>
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<tr>
<td>Under 5 Worker Non-Notifiable Projects:</td>
</tr>
<tr>
<td>Ensure Arrangements To Manage Health And Safety</td>
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</tbody>
</table>

57 Amendment of the Management of Health and Safety at Work Regulations 1999

28. The Management of Health and Safety at Work Regulations 1999 shall be amended—

(a) in regulation 4, by inserting “or self-employed person” after “employer”;

(b) in regulation 5(1), by inserting “self-employed person” after “employer”;

(c) in regulation 7(5), by substituting “an individual who is an employer and” for “a self-employed employer”.

58 These figures may not add up due to rounding. * figure less than £50,000.
<table>
<thead>
<tr>
<th></th>
<th>Present Value Over Appraisal Period, £M</th>
<th>Annualised Value £M</th>
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<td>£0.1 to £1.8</td>
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<td><strong>Information and Training</strong></td>
<td>£0.2 to £2.1</td>
<td>* to £0.2</td>
</tr>
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<td><strong>Over 4 Worker Non-Notifiable Projects and Notifiable Projects:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure Arrangements To Manage Health And Safety</td>
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<td>Notifiable Projects</td>
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<td>Inspector Training</td>
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<td>Evaluation</td>
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<td>Policy Development</td>
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<td><strong>Existing Duties</strong></td>
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<td><strong>Over 4 Worker Non-Notifiable Projects and Notifiable Projects</strong></td>
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<td>Co-ordinator</td>
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<td>Notifiable Projects</td>
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<td>Check The Competence Of Planning Supervisor, Designers And Contractors</td>
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<td>Ensuring Information Is Available</td>
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</tr>
<tr>
<td>Information and Training</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notifiable Projects</td>
<td>£17.1 to £34.2</td>
<td>£2.0 to £4.0</td>
</tr>
<tr>
<td>Over 4 Worker Non-Notifiable Projects</td>
<td>£1.4 to £4.3</td>
<td>£0.2 to £0.5</td>
</tr>
<tr>
<td>Worker Involvement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notifiable Projects</td>
<td>£0 to £64.0</td>
<td>£0 to £7.4</td>
</tr>
<tr>
<td>Over 4 Worker Non-Notifiable Projects</td>
<td>£0 to £21.3</td>
<td>£0 to £2.5</td>
</tr>
<tr>
<td><strong>Cost Savings</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Checking Compliance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notifiable Projects</td>
<td>£115.7 to £135.0</td>
<td>£13.4 to £15.7</td>
</tr>
<tr>
<td>Over 4 Worker Non-Notifiable Projects</td>
<td>£6.4 to £8.6</td>
<td>£0.7 to £1.0</td>
</tr>
<tr>
<td><strong>Amend Management of Health and Safety Regulations</strong></td>
<td>Unquantified</td>
<td>Unquantified</td>
</tr>
<tr>
<td><strong>Total Net Cost</strong></td>
<td>£1,009 to £2,846</td>
<td>£117 to £330</td>
</tr>
</tbody>
</table>

**Compliance Costs For A ‘Typical’ Business**

**Option 1: Do Nothing**

114. No additional costs are expected from this option.

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59 Figures may not add up due to rounding.
Option 2: Revised Set Of Regulations Supported By A New ACoP or Guidance

115. It is not possible to estimate the cost of the proposed Regulations for a typical business because the businesses affected by the proposed Regulations are diverse. For illustrative purposes the costs of four example projects have been presented: (1) a notifiable project where businesses are following best practice; (2) an under 5 worker non-notifiable project not compliant with the proposed Regulations; (3) a notifiable project compliant with CDM 1994 but not the proposed Regulations; and (4) a notifiable project not compliant with CDM 1994 or the proposed Regulations.

116. Costs have also been separated into business specific costs and project specific costs, because business specific costs are one off costs that are difficult to allocate on a project basis.

Business Specific Costs

Clients

117. Clients will face two costs as a result of the proposed Regulations: familiarisation costs and costs flowing from the removal of the exemption from civil liability.

118. The present value cost of familiarisation has been estimated at £2000⁶⁰.

119. It has not been possible to estimate the cost of removing the exemption from civil liability, but this is not expected to impose significant costs on the construction sector because there is no exemption from liability under the Construction (Health, Safety and Welfare) Regulations 1996 or the Management of Health and Safety At Work Regulations 1999 (MHSWR).

Contractors

120. Contractors will face two costs as a result of the proposed Regulations: familiarisation costs and costs flowing from the removal of the exemption from civil liability.

121. The present value cost of familiarisation has been estimated at £170.

122. It has not been possible to estimate the cost of removing the exemption from civil liability, but this is not expected to impose significant costs on the construction sector because there is no exemption from liability under the Management of Health and Safety At Work Regulations 1999 (MHSWR).

Designers

123. Designers will face three costs as a result of the proposed Regulations: familiarisation costs, CDM training costs and costs flowing from the removal of the exemption from civil liability.

124. The present value cost of familiarisation has been estimated at £90.

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⁶⁰ This has been calculated by multiplying the wage of a client (adding 30% for non-wage labour costs) by the number of hours familiarisation is expected to take.
125. To estimate the cost of CDM training to design businesses the following assumptions have been made: (1) no designers in the example business have received CDM training; (2) the number of designers per business is equal to the total number of designers divided by the number of design businesses; and (3) the turnover of designers is 5% per year. Under these assumptions, the cost of CDM training is £3,960 to £7,070.

126. Removing the exemption from civil liability is not expected to impose costs on the designers, as only employees will have a right of claim.

127. Under the assumptions set out above, the total cost of the proposed Regulations is £4,050 to £7,150 over the appraisal period.

Project Specific Costs

Notifiable Project Following Best Practice

128. A project where client, contractors and designers are already following best practice will have no additional per project costs imposed on it by the proposed Regulations. There will be per project cost savings for clients from a simplified procedure for checking the competence of contractors and designers. The cost saving in checking competence is estimated at £150.

129. The total cost of the proposed Regulations is minus £150.

Under 5 Worker Non-Notifiable Project Not Compliant With The Requirements Of CDM 2006

130. For an under 5 worker project where neither the client, contractor or designer is compliant with the proposed Regulations there will be the following costs: designers considering risks with intended use; contractors planning, managing and monitoring their work; clients ensuring there are arrangements to manage health and safety; clients checking the competence of the contractor and designer; clients ensuring information is available and information and training.

131. The estimated cost per project of designers considering the risks with intended use and contractors planning, managing and monitoring their work for an under 5 worker non-notifiable project are £270 and £690 respectively. The remaining estimated costs are: £30 to £50 for...

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61 The one off cost has been calculated by multiplying the number of workers per business (the total number of designers divided by the number of businesses) by the cost of the training course and the lost output incurred as a result of designers attending the course. The recurring cost is 5% of the one off cost.

62 This cost has been calculated as follows: the number of hours expected for this duty to be performed has been multiplied by the client wage (adding 30% for non-wage labour costs).

63 To estimate the cost per project of designers considering the risks with intended use and contractors plan, managing and monitoring their work it has been assumed that the cost of each task is proportional to the total project cost of each type of project.

The cost per under 5 worker non-notifiable project of considering the risks with intended use has been calculated as follows: the total value of designers has been multiplied by the proportion of total design costs that constitute the design stage, the expected increase in the cost of the design stage, the proportion of total project costs that are under 5 worker non-notifiable projects and the proportion of total construction costs spent designing places designed as places of work, divided by the number of under 5 worker projects non-notifiable per year.
clients ensuring there are arrangements to manage health and safety\textsuperscript{64}; £10 to 30 for clients checking the competence of the contractor and designer\textsuperscript{65}; £10 to £80 for clients ensuring information is available\textsuperscript{66} and £0 to £40 for information and training\textsuperscript{67}.

132. There will also be cost savings from productivity improvements for under 5 worker non-notifiable projects that have been estimated at £450 to £990\textsuperscript{68}.

133. The net per project cost of the proposed Regulations is £30 to £710.

\textit{Notifiable Project Compliant With CDM 1994 But Not With CDM 2006}

134. For a notifiable project compliant with CDM 1994 but not compliant with CDM 2006 there will be the following costs: designers considering risks with intended use, contractors planning, managing and monitoring and clients ensuring there are arrangements to manage health and safety.

135. The cost of these requirements for a notifiable project has been estimated at: £510 for designers considering risks with intended use; £1,280 for contractors planning, managing and monitoring; and £200 for clients ensuring there are arrangements to manage health and safety.

136. There will also be cost savings from a simplified procedure for clients to check the competence of co-ordinators, contractors and designers, and from productivity improvements. The cost savings from a simplified procedure have been estimated at £150 per project. The value of productivity improvements has been estimated at between £0 and £1,830\textsuperscript{69}.

The cost per under 5 worker non-notifiable project of contractors planning, managing and monitoring has been calculated as follows: the total value of contractors has been multiplied by the estimated proportion of contractor costs spent on planning, the expected increase in the cost of planning, managing and monitoring and the proportion of total project costs that are under 5 worker non-notifiable projects, divided by the number of under 5 worker non-notifiable projects per year.

\textsuperscript{64} This cost has been calculated as follows: the average wage of a client (including 30\% for non-wage labour costs) has been multiplied by the expected number of hours required to perform this duty.

\textsuperscript{65} This cost has been calculated as follows: the average wage of a client (including 30\% for non-wage labour costs) has been multiplied by the expected number of hours required to perform this duty.

\textsuperscript{66} This cost has been calculated as follows: the average wage of a client (including 30\% for non-wage labour costs) has been multiplied by the expected number of hours required to perform this duty.

\textsuperscript{67} This cost has been calculated as follows: the average wage of a contractor (including 30\% for non-wage labour costs) has been multiplied by the expected number of hours required to perform this duty and zero if there are no site specific hazards or 1 is there are site specific hazards. It has been assumed that there are no site-specific hazards for the lower bound but that there are site specific hazards for the upper bound.

\textsuperscript{68} This cost savings has been calculated as follows: the total estimated cost saving has been multiplied by the proportion of total construction costs that are under 5 worker non-notifiable projects (value of under 5 worker non-notifiable projects divided by the value of all construction projects) and divided by the number of under 5 worker non-notifiable projects.

\textsuperscript{69} The value of productivity improvements has been calculated using the same methodology as set out above for under 5 worker non-notifiable projects. The lower bound of productivity improvements has been set equal to zero because projects compliant with CDM 1994 are likely to experience smaller productivity improvements that projects not compliant with CDM 1994. It has not however been possible to estimate what the difference in
137. The net cost per project of the proposed Regulations is £10 to £1,840.

**Notifiable Project Not Compliant With CDM 1994 Or CDM 2006**

138. For a notifiable project not compliant with CDM 1994 or CDM 2006 there will be the following costs: designers considering risks with intended use; contractors planning, managing and monitoring; clients ensuring there are arrangements to manage health and safety; clients checking the competence of the contractor and designer; clients ensuring information is available; information and training; worker involvement and employing a co-ordinator.

139. The cost of these requirements for a notifiable project has been estimated at: £510 for designers considering risks with intended use; £1,280 for contractors planning, managing and monitoring; £200 for clients ensuring there are arrangements to manage health and safety; £150 for clients checking the competence of the contractor and designer; £600 for clients ensuring information is available; £0 to £330 for information and training; £80 to £250 for worker involvement and £1,900 for employing a co-ordinator.

140. There will be cost savings from productivity improvements that have been estimated at between £830 and £1830.

141. The total per project cost of the proposed Regulations is £3,378 to £3,882.

**Small Firms’ Impact Test**

**Option 1: Do Nothing**

142. No additional impacts are expected from this option.

**Option 2: Revised Set Of Regulations Supported By A New ACoP or Guidance**

143. The May 2004 National Audit Office report “Health and Safety Executive: Improving health and safety in the construction industry” said, “Ninety per cent of construction workers work for companies employing up to seven workers – small and medium sized firms and sole traders”.

144. The importance of small firms to the construction industry has been recognised by including a representative from the Federation of Master Builders (FMB), a primary representative organisation for small firms in the construction industry, on a working group of the Construction Industry Advisory Committee that has been working with the Health and Safety Executive to develop the revised Regulations.

145. The FMB is satisfied that the new Regulations are not unduly burdensome and/or complex as to prejudice the interests of their members.

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*productivity improvements will be between projects compliant with CDM 1994 and projects not compliant with CDM 1994.*
Competition Assessment

Option 1: Do Nothing

146. No additional impacts are expected from this option.

Option 2: Revised Set Of Regulations Supported By A New ACoP or Guidance

147. The construction industry is characterised by having a small number of very large firms while the vast majority of firms are in the small and medium sized category. No firm has a market share greater than ten per cent and the three largest firms together account for less than fifty per cent of the total market.

148. Revising existing Regulations will not alter the competitive make up of the construction industry, either in terms of benefiting some firms more than others, or firms of a particular size over those of a different size. Nor will the revised Regulations affect access to the market by increasing set up or ongoing costs unevenly.

149. While the industry is experiencing rapid technological change, the Regulations will not affect the ability of firms to compete in taking advantage of these changes or to compete in other areas such as price, quality, range or location.

Balance Of Costs And Benefits

Option 1: Do Nothing

150. There are no costs or benefits expected from this option.

Option 2: Revised Set Of Regulations Supported By A New ACoP or Guidance

151. The total cost of the proposed Regulations has been estimated to be between £1.0 and £2.8 billion, with quantified benefits estimated in the range of £1.96 to £5.9 billion (including reportable injuries, minor injuries and non-injury accidents) over the appraisal period, using the ECIA approach. The table below shows a simplified summary the costs and benefits.

Table 9: Option 2 Summary table.

<table>
<thead>
<tr>
<th></th>
<th>Present Value Over Appraisal Period, £Millions</th>
<th>Annualised Value £Millions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Benefit of Option 2</td>
<td>1,957 to 5,918</td>
<td>227 to 688</td>
</tr>
<tr>
<td>Total Net Cost of Option 2</td>
<td>1,009 to 2,846</td>
<td>117 to 330</td>
</tr>
</tbody>
</table>

152. For the purposes of making a judgement about the proportionality of the proposed Regulations, all business benefits should be treated as cost savings because only health and safety benefits, and wider societal benefits should receive a premium following the ‘gross disproportionality’
rule⁷⁰. This means that cost savings are negative costs rather than benefits, as benefits they would receive greater weight as gross disproportionality confers that costs should be proportional to benefits for aversion of risk to take place. Treating all cost savings as negative costs, the cost of the proposed Regulations is minus £639 to minus £152 million, so there are net positive health and safety benefits.

**Uncertainties**

100% Compliance With Proposed Regulations⁷¹

153. The costs above have been estimated under the assumption that there will be the expected level of compliance estimated by HSE inspectors and staff. If this assumption is dropped and 100% compliance with the proposed Regulations is assumed then the costs and benefits of the proposed Regulations will both increase.

154. In this section the estimated expected level of compliance has been replaced with 100%.

155. The costs and benefits of the proposed Regulations are set out in the tables below.

**Table 9: Benefits Of Option 2 Assuming 100% Compliance**

<table>
<thead>
<tr>
<th></th>
<th>Present Value of Benefits Over Appraisal Period, £M</th>
<th>Annualised Benefits £M</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Safety Benefits</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>ECIA Approach</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reportable Injuries</td>
<td>2,899 to 3,290</td>
<td>337 to 382</td>
</tr>
<tr>
<td>All Injuries and Accidents</td>
<td>7,950 to 8,917</td>
<td>924 to 1,036</td>
</tr>
<tr>
<td><strong>Influence Network Approach</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reportable Injuries</td>
<td>1,822 to 1,856</td>
<td>212 to 216</td>
</tr>
<tr>
<td>All Injuries and Accidents</td>
<td>4,997 to 5,031</td>
<td>581 to 585</td>
</tr>
<tr>
<td><strong>Injuries and Ill Health in the Workplace</strong></td>
<td>Unquantified</td>
<td>Unquantified</td>
</tr>
<tr>
<td><strong>Health Benefits</strong></td>
<td>Unquantified</td>
<td>Unquantified</td>
</tr>
<tr>
<td><strong>Other Benefits</strong></td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Productivity Improvements</strong></td>
<td>£11,620 to £12,782</td>
<td>£1,350 to £1,485</td>
</tr>
</tbody>
</table>

**Table 10: Costs Of Option 2 Assuming 100% Compliance⁷²**

<table>
<thead>
<tr>
<th></th>
<th>Present Value Over Appraisal Period, £M</th>
<th>Annualised Value £M</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Additional Duties</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Familiarisation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractors</td>
<td>£34.9 to £37.3</td>
<td>£4.1 to £4.3</td>
</tr>
<tr>
<td>Designers</td>
<td>£2.9</td>
<td>£0.3</td>
</tr>
<tr>
<td>Clients</td>
<td>unquantified</td>
<td>unquantified</td>
</tr>
<tr>
<td>Designers:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consider Risks With Intended Use</td>
<td>£725.6 to £781.4</td>
<td>£84.3 to £90.8</td>
</tr>
<tr>
<td>Contractors:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plan, Manage And Monitor Their Work</td>
<td>£2,982.6 to £3,280.8</td>
<td>£346.5 to £381.2</td>
</tr>
</tbody>
</table>

⁷⁰ As set out by the Court of Appeal in its judgment in Edwards v. National Coal Board, [1949] 1 All ER 743

⁷¹ The costs of the proposed regulation have been estimated using the same methodology as set out for each of the costs above. The difference is that the expected increase in the level of compliance is the level that will raise compliance to 100%.

⁷² These figures may not add up due to rounding. * figure less than £50,000.
<table>
<thead>
<tr>
<th>Under 5 Worker Non-Notifiable Projects:</th>
<th>Present Value Over Appraisal Period, £M</th>
<th>Annualised Value £M</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure Arrangements To Manage Health And Safety</td>
<td>£36.4 to £77.1</td>
<td>£4.2 to £9.0</td>
</tr>
<tr>
<td>Check The Competence Of Designers And Contractors</td>
<td>£18.2 to £38.6</td>
<td>£2.1 to £4.5</td>
</tr>
<tr>
<td>Ensuring Information Is Available Information and Training</td>
<td>£18.9 to £118.2</td>
<td>£2.2 to £13.7</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Over 4 Worker Non-Notifiable Projects and Notifiable Projects:</th>
<th>Present Value Over Appraisal Period, £M</th>
<th>Annualised Value £M</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure Arrangements To Manage Health And Safety</td>
<td>£385.6 to £411.3</td>
<td>£44.8 to £47.8</td>
</tr>
<tr>
<td>Notifiable Projects</td>
<td>£17.1 to £36.4</td>
<td>£2.0 to £4.2</td>
</tr>
</tbody>
</table>

| Removal Of The Exemption From Civil Liability | £0 | £0 |

<table>
<thead>
<tr>
<th>HSE:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspector Training</td>
<td>*</td>
</tr>
<tr>
<td>Evaluation</td>
<td>£0.1 to £0.2</td>
</tr>
<tr>
<td>Policy Development</td>
<td>£0.2 to £0.2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Existing Duties</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Designers:</td>
<td></td>
</tr>
<tr>
<td>CDM Training</td>
<td>£42.8 to £76.3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Over 4 Worker Non-Notifiable Projects and Notifiable Projects</th>
<th>Present Value Over Appraisal Period, £M</th>
<th>Annualised Value £M</th>
</tr>
</thead>
<tbody>
<tr>
<td>Co-ordinator</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notifiable Projects</td>
<td>£1,713.2 to £1,958.0</td>
<td>£199.0 to £227.5</td>
</tr>
<tr>
<td>Over 4 Worker Non-Notifiable Projects</td>
<td>£1,709.3 to £1,816.1</td>
<td>£198.6 to £211.0</td>
</tr>
<tr>
<td>Check The Competence Of Planning Supervisor, Designers And Contractors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notifiable Projects</td>
<td>£250.6 to £269.9</td>
<td>£29.1 to £31.4</td>
</tr>
<tr>
<td>Over 4 Worker Non-Notifiable Projects</td>
<td>£34.3 to £36.4</td>
<td>£4.0 to £4.2</td>
</tr>
<tr>
<td>Ensuring Information Is Available</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notifiable Projects</td>
<td>£1,079.6 to £1,156.8</td>
<td>£125.4 to £134.4</td>
</tr>
<tr>
<td>Over 4 Worker Non-Notifiable Projects</td>
<td>£205.6 to £218.5</td>
<td>£23.9 to £25.4</td>
</tr>
<tr>
<td>Information and Training</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notifiable Projects</td>
<td>£119.6 to £128.1</td>
<td>£13.9 to £14.9</td>
</tr>
<tr>
<td>Over 4 Worker Non-Notifiable Projects</td>
<td>£22.8 to £24.2</td>
<td>£2.6 to £2.8</td>
</tr>
<tr>
<td>Worker Involvement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notifiable Projects</td>
<td>£160.1 to £512.4</td>
<td>£18.6 to £59.5</td>
</tr>
<tr>
<td>Over 4 Worker Non-Notifiable Projects</td>
<td>£56.9 to £181.5</td>
<td>£6.6 to £21.1</td>
</tr>
</tbody>
</table>

| Cost Savings | |
| Checking Compliance | |
| Notifiable Projects | £115.7 to £135.0 | £13.4 to £15.7 |
| Over 4 Worker Non-Notifiable Projects | £6.4 to £8.6 | £0.7 to £1.0 |

| Total Net Cost | £9,498 to £11,030 | £1,103 to £1,281 |

156. If costs are estimated to 100% compliance then net costs are in the range of £9.5 to £11 billion. Estimated benefits are in the range of £16.6 to £21.7 billion (including reportable injuries, minor injuries and non-injury accidents) using the ECIA approach. Therefore, with 100% compliance the benefits are estimated to be larger than the costs.

**Health and Safety Benefit Uncertainties**

157. The estimated health and safety benefits are uncertain. It is unlikely that they will be smaller than the magnitudes estimated because health benefits have not been quantified. Additionally, long-term benefits flowing from designers considering the risks with the intended use of the building...
have not been quantified. Commercial benefits are likely to arise from a reduction in future expenditure, (in terms of time and money), by workplace (e.g. factories, office, schools) owners and occupiers because health and safety issues are tackled at the design stage, rather than alterations being required after occupation. It can be very expensive to modify unsafe traffic routes, slippery floor surfaces, poor access to lights for cleaning and maintenance purposes if such issues are not addressed at the design stage. Potential litigation costs arising from accidents or ill-health linked to such features should also be reduced. The benefits from both of these could be substantial.

**Productivity Increases**

158. It has been estimated that the proposed Regulations could reduce project costs by 3%. If the reduction in project costs matched the ‘Demonstrations’ with a reduction of 6% then the value of the productivity increases would be £2.3 to £7.0 billion assuming expected compliance and £23.2 to £25.6 billion assuming 100% compliance, over the appraisal period. The cost savings from productivity increases would outweigh the estimated costs of the proposed Regulations.

**Designers Consider Risks With Intended Use**

159. There is uncertainty surrounding the estimated cost of this requirement. It has been estimated that the cost of the design stage will increase by 3 to 5% and that the cost of additional cost of this requirement will fall by 20% each year of the appraisal period as designers become more experienced with performing this duty. If however, the cost of this requirement remains constant for each year of the appraisal period, then the cost of this duty will be £236 to £354 million assuming expected compliance and between £1,535 and £1,653 million assuming 100% compliance, over the appraisal period.

**Client Familiarisation Costs**

160. It has not been possible to estimate the costs to clients of familiarisation with the proposed Regulations because the number of clients per year is unknown. It is known that 65% of clients are repeat clients per year (assumed to have an average of 5 projects per year) and the remaining 35% only have one project, of these only 70% are commercial clients. If familiarisation takes 8 hours, clients receive the average client wage, and that there is 100% compliance with this duty, the present value cost of familiarisation in this case is £56.7 million over the appraisal period.

**Other Cost Uncertainties**

161. There are a number of uncertainties in the costs that have been estimated. To reflect these uncertainties ranges have been used where appropriate.

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73 Client familiarisation costs in year one have been calculated as follows: the number of projects has been multiplied by the assumed number of clients, the number of hours familiarisation is expected to take and the average client wage (adding 30% for non-wage labour costs). The costs in year two onwards, are the costs in the previous year multiplied by the proportion of all clients who are new clients per year.

74 From BOMEL RIDDOR Research Report RR139.
Enforcement And Sanctions

162. Depending on the type of construction activity involved, the Regulations will be enforced by either the Health and Safety Executive or Local Authorities.

163. Compliance is expected to be higher, due to many of the requirements being easier to understand for duty holders. Many of the requirements are already being met within the industry and there is the capacity to share this existing compliant practice as well as good practice.

164. Inspectors will identify non-compliance by responding to queries raised, investigating accidents and incidents, and routine checks. Inspectors may offer duty holders information and advice. Where appropriate, enforcement action may be taken in accordance with the HSC Enforcement Policy Statement.

165. The Health and Safety at Work etc Act 1974, section 33 (as amended) sets out the offences and maximum penalties under health and safety legislation.

166. The impact of the new Regulations will be assessed over time by monitoring reports of fatalities, injuries and near misses, which are submitted by duty holders.

Arrangements For Monitoring And Evaluation

167. HSE has commissioned research, currently underway, to establish baseline data for future evaluation of the Regulations. There will also be post-implementation monitoring of the Regulations, to determine impact in the light of ongoing feedback (Infoline enquiries, operational and stakeholder feedback etc); and formal evaluation is expected to take place around 5 years after implementation.

Contact Point:

Cathy Kerby, HSE Construction Policy, 5 SW, Rose Court, London, SE1 9HS

Tel: 020 7556 2106 Fax: 020 7556 2209 E-mail: cathy.kerby@hse.gsi.gov.uk
HOW TO RESPOND

1. We would much prefer to have your responses in electronic format. This makes it quicker and easier for us to analyse the responses accurately. However, we know that many of you do not have access to a computer, so responses in any format will be gratefully received. You may respond by:
   - completing the questionnaires online at http://consultations.hse.gov.uk/consult.ti/conregs
   - downloading them and e–mailing them to us at cdmreview@hse.gsi.gov.uk
   - filling in the questionnaire overleaf and posting it to the address quoted at the end.

2. Many of the questions are posed to enable “yes/no” answers, to make statistical analysis of the responses easier. It is, however, very important for us to understand the reasons behind your answers, and so a free–text box is also provided for most questions. If you disagree with the proposals it is particularly important that you explain why, and suggest alternatives. **More weight will be given to responses that provide reasoned arguments and alternatives.**

3. In addition to the specific questions in the questionnaire we would also welcome comments on and suggestions for improvements to the draft documents. Again, it would help us with the analysis if you provide your comments electronically, using the online questionnaires or the versions provided for downloading which can be completed on your PC.

4. Please take the time to provide the requested background information about yourself and organisation. This information helps us to interpret and weight responses.

What we will do with your response

5. We will acknowledge all responses and give full consideration to the substance of arguments in the development of proposals. We may also contact you again if, for example, we have a query.

6. Your response will normally be made public, unless you request us to keep it confidential. (You can see how we did this with responses to the 2002 discussion document at http://www.hse.gov.uk/consult/2002.htm.) Please note the advice about confidentiality of responses and standard confidentiality e–mail statements given on the front cover.

7. A summary of the responses, and the text of non-confidential ones, omitting addresses, etc., will be posted on our website (http://www.hse.gov.uk/consult/live.htm) as soon as possible after the conclusion of the consultation period. We will notify respondents who provide an e–mail address when it is available.

Data Protection

8. If you reply to this consultation document in a personal capacity, rather than as a post holder of an organisation, you should be aware that information you provide may constitute “personal data” in the terms of the Data Protection Act 1998. For the purposes of this Act, HSE is the “data controller” and will process the data for health, safety and environmental purposes. HSE may disclose this data to any person or organisation for the purposes for which it was collected, or where the Act allows disclosure. You have the right to ask for a copy of the data and to ask for inaccurate data to be corrected.

Queries

9. If you have any queries about the consultation exercise you can email them to cdmreview@hse.gsi.gov.uk or contact Paul Cunningham. His telephone number is: 020 7556 2210.)
Formal response to HSC proposals for the revision of the Construction Regulations (CDM / CHSW)

## Background Information

<table>
<thead>
<tr>
<th>Company/Organisation name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Your Name:</td>
<td></td>
</tr>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>Telephone number:</td>
<td></td>
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<tr>
<td>Email Address:</td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Role:</th>
<th>Sector:</th>
<th>Size of Organisation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Client</td>
<td>General building</td>
<td>1-5</td>
</tr>
<tr>
<td>Designer</td>
<td>Civil Engineering</td>
<td>6-10</td>
</tr>
<tr>
<td>Planning supervisor</td>
<td>Refurbishment and maintenance</td>
<td>11-25</td>
</tr>
<tr>
<td>Principal contractor</td>
<td>Facilities management</td>
<td>26-50</td>
</tr>
<tr>
<td>Contractor</td>
<td>Education and training</td>
<td>51-100</td>
</tr>
<tr>
<td>Manufacturer/Supplier</td>
<td>Other (please specify)</td>
<td>101-500</td>
</tr>
<tr>
<td>Trade union</td>
<td>Over 500</td>
<td></td>
</tr>
<tr>
<td>Trade association</td>
<td></td>
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<tr>
<td>Other (please specify)</td>
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</tbody>
</table>

(Please tick all that apply)

Q1. Responses to the Discussion Document (published 2002) indicated a clear view that the Regulations needed to be revised. Having seen the proposals do you:

- a) support the changes proposed (in general terms)
- b) feel you would rather stick with the current Regulations and ACOP
- c) neither of the above (please give your alternative below)

## Alternative suggestions/comments
Q2. Do you think the proposals will:

<table>
<thead>
<tr>
<th>Strongly Disagree</th>
<th>Disagree</th>
<th>Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>help to reduce bureaucracy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>encourage team-working</td>
<td></td>
<td></td>
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<tr>
<td>support effective project management</td>
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</tbody>
</table>

How could this be improved?

Q3. How can we (Industry and HSE) make it easier for people to assess appointees’ competence?

Q4. Taking account of clients’ influential role, but also of their frequent lack of construction expertise, do you think the proposed new duties on clients (particularly to ensure that there are suitable management arrangements) are reasonable and appropriate?

| Yes |  |
| No (What is needed instead?) |  |

Q5. Do you think the draft Regulations make it clear that the intention of the proposed new duty on clients is for them to ensure that things are done – but not necessarily for them to do those things themselves?

| Yes |  |
| No (How could this be made clearer?) |  |
Q6. Do you think the proposed duties on clients (supported by co-ordinators) to ensure there are arrangements for managing projects are likely to have a beneficial effect on safe planning and arrangements for work?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No (How could this be achieved?)</th>
</tr>
</thead>
</table>

Q7. Do you think the explicit duty on clients to allocate sufficient time and resources is helpful?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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</table>

Comments

Q8. Will the proposed role of the co-ordinator provide the support needed by clients, particularly inexperienced ones?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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</table>

Comments

Q9. Do the proposed changes address the issues of late appointment and lack of influence currently faced by Planning Supervisors?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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<tbody>
<tr>
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</table>

Comments
<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q10. Do you think the proposed designers' duties are appropriate, reasona...</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>No (What is needed?)</td>
</tr>
<tr>
<td>Q11. Do you think the proposed duties on designers, when read with the s...</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>No (What is needed?)</td>
</tr>
<tr>
<td>Q12. Do you agree with the proposed explicit duty on designers to consider...</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>No (please explain)</td>
</tr>
<tr>
<td>Q13. There is a proposed duty on designers to provide the information need...</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>No (please explain)</td>
</tr>
<tr>
<td>Q14. Do you think buildability/maintainability/usability reviews provide a practical way of reviewing designs to ensure they satisfy the requirements of the proposed Regulations?</td>
<td></td>
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<tr>
<td>---</td>
<td></td>
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<tr>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>No (please explain)</td>
<td></td>
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<table>
<thead>
<tr>
<th>Q15. Do you think the proposed new duty to spell out the minimum time between mobilisation and actually starting work will help to ensure sufficient time is available to prepare properly for construction?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>No (How could this be achieved?)</td>
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</table>

<table>
<thead>
<tr>
<th>Q16. Does grouping the Regulations' requirements by duty holder make it easier to understand the various responsibilities?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>No (How would you organise them?)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Q17. Responses to the Discussion Document indicated a preference for a single set of construction regulations. Now that you can see what that looks like, would you prefer:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) a single set (as proposed)</td>
</tr>
<tr>
<td>b) separate packages covering the management and practical requirements?</td>
</tr>
<tr>
<td>Comments / Reasons for preference</td>
</tr>
</tbody>
</table>

Page – 169
Q18. Do the definitions of "construction work" and "structure" at regulation 2(1) satisfactorily cover everything that the Regulations should apply to and nothing else?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No (How could they be improved?)</th>
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</table>

Q19. Do you agree that (apart from the exceptions already in CDM 1994), civil liability for breaches of the Regulations should be limited to employer/employee relationships?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No (Please explain why you disagree.)</th>
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</table>

Q20. Do you agree with the suggested changes to CDM enforcement demarcation?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No (Please explain why you disagree.)</th>
</tr>
</thead>
</table>

Q21. Having compared the current ACOP and guidance (HSG 224) with the revised draft guidance, which do you think communicates more clearly what duty holders need to do to comply with the Regulations?

<table>
<thead>
<tr>
<th>a) ACOP and guidance (HSG 224 style)</th>
<th>b) Guidance only style (as in the CD draft)</th>
</tr>
</thead>
</table>

Comments / Reasons
Q22. Would there be a benefit from specific, integrated guidance drafted for your sector of the industry? (This would probably work best if it addressed health and safety alongside other relevant issues)

<p>| | |</p>
<table>
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<th></th>
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<tbody>
<tr>
<td>a)</td>
<td>Yes, I am willing to develop such guidance, in discussion with the key players in my sector.</td>
</tr>
<tr>
<td>b)</td>
<td>No</td>
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</table>

Comments

Q23. The draft RIA is based on our "best guess" estimates of the likely impact of the proposals. Do you believe them to be reasonable?

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<tbody>
<tr>
<td>Yes</td>
<td></td>
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<tr>
<td>No</td>
<td></td>
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</table>

(We would particularly welcome any hard evidence that you can provide to support a more realistic calculation of the proposed Regulations' likely impact.)

Q24. Any other general comments (See below for specific comments on the draft Regulations or guidance)
Your Views about the consultation exercise

Q25. In your view, how well does the Consultative Document represent the different policy issues involved in this matter?

<table>
<thead>
<tr>
<th>Very well</th>
<th>Not Well</th>
</tr>
</thead>
<tbody>
<tr>
<td>Well</td>
<td>Poorly</td>
</tr>
</tbody>
</table>

Q26. Is there anything you particularly liked or disliked about this consultation exercise?

HSE is evaluating the use of online consultations to support this project. Please answer this section in relation to your use of the system.

Q27. Did you use the online system to:

- a) download the consultative document?
- b) respond by online questionnaire?
- c) respond by uploading the response document?
- d) keep informed when the conclusions are published?

Q28. Please rate your agreement with the following statements:

| a) downloading the document is preferable to ordering a full paper copy. |
| b) download allowed faster access to the document than posted hard copy. |
| c) after downloading I printed the document for reading / review. |
| d) I understood the different methods of responding (questionnaire, document). |
| e) the site was easy to navigate / understand. |
| f) the online questionnaires were straightforward to use. |
| g) the ability to save as draft for review before final submission was useful. |

<table>
<thead>
<tr>
<th>Strongly Disagree</th>
<th>Disagree</th>
<th>Neutral</th>
<th>Agree</th>
<th>Strongly Agree</th>
</tr>
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Q29. Are you a member of any of our other Online Communities?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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</table>
Q30. Would you use this kind of Online system for future consultations?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) For accessing the Consultation Document, but not for responding.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) For responding through online questionnaires.</td>
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<td></td>
</tr>
<tr>
<td>c) For responding by uploading a response document.</td>
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</table>

Q31. If you didn't use the system, why not?

<p>| | | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>a) Don't have Internet Access.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Prefer to use Paper.</td>
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<td></td>
</tr>
<tr>
<td>c) Difficulty understanding the system.</td>
<td></td>
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<tr>
<td>d) Desire to respond outside of the questionnaire format.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e) Registration problems.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f) Other (please specify).</td>
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</tbody>
</table>

Thank you for answering these questions.

It would be helpful if you would also provide any specific comments on the draft Regulations and Guidance

(see [http://consultations.hse.gov.uk/consult.ti/conregs/consultationHome](http://consultations.hse.gov.uk/consult.ti/conregs/consultationHome))

Please send completed questionnaires to:

Paul Cunningham,
Health and Safety Executive,
Construction Policy,
5SW, Rose Court,
2, Southwark Bridge,
London
SE1 9HS

Telephone: 020 7556 2175
The full text of this and other Consultative Documents can be viewed and downloaded from the Health and Safety Executive web site on the internet:

www.hse.gov.uk/consult/index.htm