

CONSTRUCTION – CLIENT DUTIES



Health and Safety Guidance Note



NFU Mutual
RISK MANAGEMENT SERVICES

INTRODUCTION

Whilst there have been significant reductions in the number of injuries over the last 20 years, construction remains a high risk activity. Although it accounts for only 7% of the workers in Britain, it accounts for more than 25% of the fatal accidents and over 10% of major injuries. Those who commission construction work (the Client) are in a unique position to help manage health and safety during construction work.

THE REGULATIONS

The Construction (Design & Management) Regulations 2015 (CDM) set out what people involved in construction work need to do to protect themselves and others from harm. CDM applies to all building and construction work, including new builds, demolition, refurbishments, extensions, conversions, repair and maintenance.

WHO IS 'THE CLIENT'?

A Client is anyone who has construction work carried out for them. There are two types of Client - 'Commercial' and 'Domestic'.

'Commercial Clients' have construction work carried out as part of their business, whether the business operates for profit or not. An example of a 'Commercial Client' is a farmer having a new barn built. A Client can be an individual, partnership or company and they have significant duties under CDM.

'Domestic Clients' have construction work carried out for them but not in connection with any business - usually this is work done on their own home or the home of a family member. CDM does not require Domestic Clients to carry out Client duties as these normally pass to other dutyholders.

WHAT ARE THE CLIENT'S LEGAL RESPONSIBILITIES?

The Client has overall responsibility for the successful management of the construction project and is supported by other key dutyholders such as the Principal Designer and Principal Contractor. The Client has a key influence on the outcome of a construction project, because the project is originated by the Client and pays for the work to be executed. For the successful delivery of a project, good working relationships between the duty holders are essential from the start.

The Client has specific duties at all stages of the project. These include:

- Ensuring that suitable management arrangements are made for the project;
- Selecting and appointing a competent and resourced Principal Designer;
- Selecting and appointing a competent and resourced Principal Contractor;
- Notifying the Health and Safety Executive (HSE) of certain projects (see 'Notify the Project' section);
- Ensuring sufficient time and resources are allowed for all stages of the project;
- Providing the pre-construction information (PCI) to the designers and contractors;
- Verifying the adequacy of the construction phase plan (CPP) prior to work starting; and
- Verifying that suitable welfare facilities are in place prior to work starting.

There are three important phases within a construction project:

- **The pre-construction phase:** the inception, design and planning stage of a project (before the construction or building work starts);
- **The construction phase:** the start-to-finish stage of the construction or building work; and
- **The post-construction phase:** the practical completion of the construction or building work, including handover.

At each phase the Client has an important role to play.

THE PRE-CONSTRUCTION PHASE

The pre-construction phase is the period before site work starts. As the Client, you must ensure that construction work is properly planned, resourced and managed to protect the health, safety and welfare of those carrying out work on, or who may be affected by, your project.

Providing a Client Brief

A Client Brief is a useful way in which to outline your project requirements to others such as designers and/or contractors and helps you comply with your CDM duties. A good Client Brief should:

- Describe the main function of the finished building or structure;
- Outline your motivation for initiating the project;
- Give your expectations (including for health and safety) during the project;
- Explain the design direction you have in mind;
- Establish a single point of contact for any Client queries or discussions during the project; and
- Set a realistic timeframe and budget.

Your designer (architect) or contractor should be able to help you with developing a good brief.

Ensuring suitable management arrangements are made for the project

As the Client, you must make suitable arrangements to ensure that, throughout the planning, design and construction of a project, adequate thought is given to the health and safety of all those involved in or affected by the construction work.

To be suitable, the arrangements should focus on the needs of the particular project and be proportionate to the size of the project and risks involved in the work. Arrangements should include:

- Assembling the project team – appointing designers (including a Principal Designer) and contractors (including a Principal Contractor);
- Ensuring the roles, functions and responsibilities of the project team are clear;
- Ensuring sufficient resources and time are allocated for each stage of the project – from concept to completion;
- Ensuring effective mechanisms are in place for members of the project team to communicate and cooperate with each other and coordinate their activities;
- Determining how the Client will take reasonable steps to ensure that the Principal Designer and Principal Contractor comply with their separate duties. This could take place at project progress meetings or via written updates;
- Setting out the means to ensure that the health and safety performance of designers and contractors is maintained throughout; and
- Ensuring that workers are provided with suitable welfare facilities for the duration of construction work.

Appointing the Principal Designer & Principal Contractor

– If there will be more than one contractor working on your project then, as the Client, you must appoint a competent Principal Designer and a competent Principal Contractor in writing (an Appointment template is provided below). If you do not do this then you take on these roles and associated legal duties yourself.

The Principal Designer is responsible for overseeing the design and planning stage of your project and therefore should be appointed as soon as possible. The Principal Designer should help you as the Client to discharge your duties appropriately.

The Principal Contractor is responsible for managing the health and safety aspects of the construction phase. You should appoint

a Principal Contractor as soon as you know enough about the project to select a suitable contractor so they can make contributions to the health and safety of the design.

As a Client, appointing suitable competent designers and contractors is one of your main duties. They should be able to demonstrate that they can deliver the project for you in a way that secures health and safety. This means that they should:

- Have the necessary capabilities and resources;
- Have the right blend of skills, knowledge, training and experience; and
- Understand their roles and responsibilities when carrying out the work.

You may need to make specific enquires about their basic health and safety knowledge when carrying out the job in question.

Providing Pre-Construction information

As a Client you must provide information regarding the project, site and other relevant issues to the designers and contractors. The information will be useful for the designers to help them in their attempts to eliminate or reduce risks by their design decisions, for tendering contractors to help them properly evaluate the work and the associated risks and the contractors performing the work to help them in their management of health and safety on the site.

You should make this information available early enough for the designers to assess the information for the elimination and reduction of risk by design.

A pro-forma document for providing relevant pre-construction information is included at the end of this guidance note.

Notify the project

If your project is expected to last longer than 30 working days and has more than 20 workers working on the project at any one time, or exceeds 500 person days, as a Client you will need to make sure that your project is notified to the Health and Safety Executive (HSE). The easiest way to notify any project to the HSE is to use the online notification form F10 on the HSE's website: <https://www.hse.gov.uk/forms/notification/f10.htm>

THE CONSTRUCTION PHASE

Construction Phase Plans

As the Client you must ensure that a sufficiently developed Construction Phase Plan is in place before construction work begins.

The Principal Contractor is required to produce a plan of how they will manage health and safety on site during the construction phase. Before the work starts on site you will need to satisfy yourself that the plan is adequate for the work. You could do this by checking with the Principal Contractor that the plan is relevant and meets the requirements of the job.

The plan should be project-specific, take into account the pre-construction information provided and its contents should be proportionate to the site risks. Your Principal Designer may be able to assist in assessing the plan.

Site Welfare

As the Client you must make sure that your contractor has made suitable welfare facilities available on site. You should check that they are in place from the very start of the site work by:

- Agreeing that your existing welfare facilities are made available to those carrying out the work;

- Asking for confirmation from the Principal Contractor (or contractor on a single contractor project) of what facilities are being provided;
- Carrying out a site visit.

Suitable welfare facilities include:

- Lit and ventilated toilets (suitable for men and women);
- Lit and ventilated washing facilities next to the toilets, including hot, cold or warm running water, soap or hand cleaner, towels or means of drying hands;
- Supply of drinking water and cups;
- Facilities for rest (tables and chairs); and
- Where required, changing rooms and lockers.

The facilities must be regularly cleaned and cater for the expected number and type of workers on site.

Ensure the management arrangements are working

As the Client, you are required to ensure that the arrangements made for managing health and safety during construction are working successfully. You should also satisfy yourself that the Principal Contractor is complying with their duties. This may be carried out through face-to-face progress meetings or via written updates.

Handover arrangements

As the project nears its end, you should check any arrangements made for its completion and handover. This could include a phased handover, such as you taking partial possession of finished parts of the building and checking that agreed measures are in place to ensure the health of safety of those in the areas that have been handed over.

THE POST-CONSTRUCTION PHASE

Ensure the Health & Safety File has been prepared

It is a duty of the Principal Designer to prepare and a health and safety file and provide this to you at the end of the project. If the Principal Designer's role finished before the end of the project then the Principal Contractor would have taken over this duty and will provide the file.

The file can be in an electronic format, on paper, on film or in any other durable form.

The file contains the information needed to ensure the health and safety of anyone carrying out any future construction, demolition, cleaning or maintenance work on your building or structure. You and the Principal Designer should identify and agree the structure, content and format for the health and safety file at the beginning of the project. Before it is passed to you, it should have been reviewed and updated to ensure it contains all the necessary information.

Maintain the Health & Safety File

Once your project is completed, you must keep the health and safety file readily available. If responsibility for the premises is passed on or shared, you must give the health and safety file to each new owner and make it available to leaseholders. You must also ensure that the file is kept updated where required and that it is available to anyone who may need it to comply with health and safety law.

FURTHER GUIDANCE

- HSE website 'Construction, Design and Management Regulations 2015'
<http://www.hse.gov.uk/construction/cdm/2015/index.htm>
- L153 Managing health and safety in construction
<http://www.hse.gov.uk/pubns/priced/l153.pdf>
- INDG411 Needing construction work done?
<http://www.hse.gov.uk/pubns/indg411.pdf>
- CIS 59 Provision of welfare facilities during construction work
<http://www.hse.gov.uk/pubns/cis59.pdf>

These documents are available to download free of charge from www.hse.gov.uk/pubns/books.

CLIENT'S DUTIES CHECKLIST

The Client has many duties to fulfil under the regulations. The Checklist below can help to do this:

| Before construction work begins | Yes | No |
|---|-----|----|
| Are you clear about your responsibilities under the Regulations? | | |
| Have you appointed a Principal Designer in writing? | | |
| Have you checked that the Principal Designer or designer has the capability and necessary skills, knowledge, training and experience to fulfil their duties? | | |
| Have you appointed a Principal Contractor in writing? | | |
| Have you checked that the Principal Contractor has the capability and necessary skills, knowledge, training and experience to fulfil their duties? | | |
| Have you checked that the project team is adequately resourced? | | |
| Has a project or client brief been issued to the project team? | | |
| Has the project team been provided with information about the existing site or structure (pre-construction information)? | | |
| Are suitable arrangements in place to manage health and safety throughout the project? | | |
| Has sufficient time been allowed to complete the key activities? | | |
| Has the project been notified to the HSE? If your project is expected to last longer than 30 working days and has more than 20 workers working on the project at any one time, or exceeds 500 person days, you will need to make sure that your project is notified to the Health and Safety Executive (HSE). Use the online notification form F10 on the HSE's website: https://www.hse.gov.uk/forms/notification/f10.htm | | |
| During construction work | Yes | No |
| Are you satisfied that suitable welfare facilities have been provided before work starts on site? | | |
| Have you checked that a construction phase plan has been adequately developed before work starts on site? | | |
| Have you agreed the format and content of the Health and Safety File? | | |
| At the end of the project | Yes | No |
| Has the Principal Designer/Principal Contractor provided you with a suitable Health and Safety File? | | |

PRE-CONSTRUCTION INFORMATION

When drawing up the pre-construction information, each of the following topics should be considered. Information should be included where the topic is relevant to the work proposed. The level of detail in the information should be proportionate to the risks involved in the project.

| General | |
|---|---|
| A description of the project: | |
| Key project dates: | |
| Contact details for the project team: | Client: Principal Designer: Principal Contractor: |
| Extent and location of existing information (e.g. existing Health and Safety File): | |
| Project arrangements | |
| Planning and managing the construction work: | |
| Communication arrangements: | |
| Security: | |
| Site Hoarding: | |
| Site Transport: | |
| Permit-to-work systems: | |
| Fire precautions: | |
| Emergency Procedures: | |
| Means of escape: | |
| Authorisation requirements: | |
| Confined spaces: | |
| Smoking and parking restrictions: | |

| | |
|---|--|
| Safety hazards | |
| Boundaries and access: | |
| Restrictions on deliveries, waste collection or storage: | |
| Adjacent land uses: | |
| Existing services: | |
| Ground conditions: | |
| Existing structures: | |
| Issues relating to plant and equipment: | |
| Health and safety information in earlier design, construction or 'as-built' drawings: | |
| Health hazards | |
| Asbestos: | |
| Contaminated land: | |
| Client's activities: | |
| Storage of hazardous materials: | |
| Significant design and construction hazards | |
| Assumptions and working methods: | |
| Arrangements for co-ordination of ongoing design work: | |
| Significant risks identified during design: | |
| Materials requiring particular precautions: | |

DUTYHOLDERS - APPOINTMENT LETTER TEMPLATE:

Client Name
Client Address

Dear **Insert name**

Re: CLIENT DUTIES UNDER THE CDM REGULATIONS

In accordance with Regulation 5 of the Construction (Design and Management) Regulations 2015, I hereby appoint **COMPANY NAME** to perform the role of **Principal Designer/Principal Contractor** on behalf of **CLIENT NAME** in relation to the above project with immediate effect. Under this appointment you will be required to fulfil the requirements of Regulations 11 - 16 inclusive of the Construction (Design and Management) Regulations 2015. Your appointment will remain for the duration of the project.

We would be obliged if you would acknowledge receipt of this Letter of Appointment in acceptance of this appointment and return it to us at your earliest convenience.

Yours faithfully,

Insert name
Post/title on project

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