



BAILY GARNER

Health & Safety

CDM 2015 - FAQ Sheet

1. The change to the regulations means 'Domestic' works are now included. What if you are doing DIY in your own house? Do the regulations apply to this?

If the home owner is doing the DIY themselves then the CDM Regulations will not apply. If the domestic home owner employs someone to carry out construction work in their home then they become a client under CDM 2015.

A domestic client is someone who has construction work done on their own home, or the home of a family member, which is not done in connection with a business.

Although, Domestic clients are now within the scope of CDM 2015, their duties as a client are normally transferred to;

- The contractor, on a single contractor project; or;*
- The principal contractor, on a project involving more than one contractor.*
- Or if the client wishes to make a specific appointment, the designer.*

Local authorities, housing associations, charities, landlords and other businesses may own domestic properties, but they are not a domestic client for the purposes of CDM 2015. If the work is in connection with a business attached to domestic premises, such as a shop, the client is not a domestic client.

2. How do you notify the HSE about a project?

*There is a notification form you can complete and submit via the HSE website.
(<https://www.hse.gov.uk/forms/notification/f10.htm>)
Baily Garner (Health & Safety) Ltd have carried out this duty on behalf of our clients for many years and will continue to do so as part of our CDM Compliance Advisor scope of services if requested.*

3. Define who the Client is?

CDM 2015 defines a client as anyone for whom a construction project is carried. This definition includes both non-domestic (or 'commercial') clients and 'domestic' clients (i.e. clients for whom a construction project is carried out which is not done in connection with a business).

The Regulations apply in full to commercial clients, but not for domestic clients. The domestic client duties are passed on to other professional duty holders i.e. Contractor and Designer

4. Define The Principal Designer

The HSE have defined the Principal Designer as "A Designer with control over the pre-construction phase" By 'control' it means the person in control of the design process. By 'Designer' it means an organisation or individual who either;

- prepare or modify a design for a construction project (including the design of temporary works.*
- Arrange for, or instruct someone else to do so.*

The term 'design' includes drawings, design details, specifications, bills of quantity and calculations prepared for the purpose of a design.

5. Who can be a Principal Designer?

The principal designer will usually be an organisation or, on smaller projects, they can be an individual with;

- a technical knowledge of the construction industry, relevant to the project*
- the understanding and skills to manage and co-ordinate the pre-construction phase, including any design work carried out after construction begins.*

Designers include architects, consulting engineers, quantity surveyors, interior designers, temporary

work engineers, chartered surveyors, technicians or anyone who specifies or alters a design.

They can include others if they carry out design work such as principal contractors, and specialist contractors e.g. an engineering contractor providing design, procurement and construction management services.

Where commercial clients become actively involved in designing in relation to their project, they may also be considered to be designers.

6. I am a designer but may not have the relevant Health and Safety skills to deliver on all aspects of the duties. Can I appoint someone to help me?

Yes, Principal designers will need to consider whether they have any gaps in their skills, knowledge and experience for the project and, if so, seek further advice. Therefore to perform **ALL** functions of the Principal Designer may require the engagement of a sub-contractor to provide the necessary support. Baily Garner (Health & Safety) Ltd have developed a CDM Compliance Advisor scope of services to support Principal Designers in the delivery of their duties under CDM 2015.

7a) In regards to smaller projects, such as 5 days painting a classroom, do you need to appoint a Principal Designer?

No, not if you're painting project only involves the one contractor. However if the painting involves other trades not directly employed by the same contractor then a formal appointment of a Principal Designer will then be required.

b) So if then the works require someone else to change the lights do you now need a Principal Designer?

If the electrical works form part of the project and will be carried out by another sub-contractor then yes. As there is more than one contractor on the project the client will need to appoint a Principal Designer and Principal Contractor.

8. Can a contractor be a Principal Designer?

Yes, as long as the contractor performs the duties of the Principal Designer and has the relevant skills, training and experience.

9. If you have a job with a main contractor and subcontractors does this count as more than one contractor?

Yes. The Client will need to formally appoint one of the contractors as The Principal Contractor. Where there is more than one contractor, or if it is reasonably foreseeable that more than one contractor will be working on a project at any time, the client must appoint in writing;

1. a Designer with control over the pre-construction phase as Principal Designer; and
2. a Contractor as Principal Contractor.

10. Is the Principal Designer just a new name for CDMC?

No. The Duties of the CDMC have been split between the Client and the Principal Designer and have clearly defined duties. However, it is expected some CDMC's may be able to assist in the delivery of these duties if they have the relevant skills, knowledge and experience.

11. If a Principal Designer is 'someone in control of the design' then who would be Principal Designer if the works were for example painting a classroom? There is no design involved.

If a painter picks paint colours, and is in control of the project he will be considered a designer. The term 'design' includes drawings, design details, specifications, bills of quantity and calculations prepared for the purpose of a design.

A '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;

- (a) prepares or modifies a design; or
- (b) arranges for, or instructs, any person under their 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 their control;

It is therefore reasonable to expect a contractor with design input to act as a designer if they have clearly defined roles and responsibilities. If there is more than one contractor then yes it is possible for the painter to be a principal designer.

12. The CDM Regulations 2015 come into force on 6th April 2015 can projects which started prior to the 6th April continue as before?

The HSE have allowed a transitional period of 6 months. Therefore projects that started prior to the 6th April 2015 can continue with the CDMC under the old regulations until 6th October 2015.

What if my project starts after 6th April 2015 and due to finish before 6th October 2015? Can I continue with my CDM Co-ordinator or appoint a Principal Designer?

You can carry on the project with your CDMC as long as this contract was already in place prior to the 6th April 2015.

13. There is more emphasis under CDM 2015 on the client to ensure compliance. If the Principal Contractor carries out his own inspections does this address the client's duties?

It may demonstrate compliance, however, the client may need to add key questions to progress meetings and ask for the Principal Contractor to provide evidence. However we would expect independent audits on more complex projects to be requested to ensure compliance.

14. How will clients, builders, subcontractors, designers etc know about CDM Regulations 2015 when they may not have previously dealt with it?

The HSE and professional bodies including trade bodies will need to provide targeted information. It is also expected a competent person within the construction industry should be encouraged to embrace learning and knowledge to ensure they are up to date with current guidelines and best practice. However, Baily Garner (Health & Safety) Ltd have the knowledge expertise and experience in the industry to help guide and advise those that need assistance with the changes to the CDM Regulations.

15. At what stage in the development of the project does a Principal Designer/Principal Contractor need to be appointed?

Duty holders should be appointed as soon as practicable and before the start of the construction phase. Ensuring they have enough time to carry out their duties to plan and manage the pre-construction and construction phases respectively.

The Principal Designer should be appointed as early as possible in the design process, if practicable at the concept stage. Appointing the Principal Designer

early will provide the client with help in matters such as pulling together the pre-construction information and giving the Principal Designer enough time to carry out their duties.

The Principal Contractor should be appointed early enough in the pre-construction phase to help the client meet their duty to ensure a construction phase plan is drawn up before the construction phase starts. An early appointment also gives the principal contractor time to carry out their duties such as preparing the construction phase plan and to liaise with the Principal Designer in sharing any information that may be relevant for health and safety.

16. What happens if a client fails to appoint either the Principal Designer or principal contractor?

If no appointments are made by a client then by default they will be required to fulfil all the duties of the Principal Designer and Principal Contractor.

17. Can you have multiple Principal Designers through a project?

Yes, but only if there are clearly defined stages to the project. They cannot be considered Principal Designer at the same time.

18. If a developer purchases land, creates a design and applies for planning permission but does not intend to build. Are they required to appoint a Principal Designer?

Since there is no construction taking place then you do not need to formally appoint a Principal Designer. However, they will have to demonstrate they have the skills, experience and have implemented the principles of prevention in the design stage. Once the project is passed on to become a live project then a Principal Designer will have to be appointed by the person instructing for works to be built.

19. Is the existing CDMC able to ensure compliance with the regulations?

If competent to do so, they can support the existing team to ensure compliance with the regulations. Baily Garner (Health & Safety) Ltd have developed CDM Compliance Advisor scope of services to assist Clients and Principal Designers.

20. How will taking on the role of Principal Designer affect designers such as architect's current role? Will there be additional work?

Taking on the Principal Designer duties will not cause many changes to designers existing roles. There is more emphasis on them to ensure and demonstrate compliance. The main change will be the responsibility for producing the Health and Safety File. The Health and Safety File is currently not part of the designers skill set and this is something that external safety consultancies can assist with. The Health and Safety File must contain relevant information about the project which should be taken into account when any construction work is carried out on the building after the current project has finished. The file is only required for projects involving more than one contractor.

21. Will Designers (such as Architects) take over producing the Health and Safety File from the safety consultancies in the next few years?

Yes this is a possibility. Up skilling and Up training will be needed. The Health and Safety File can be time consuming when chasing and collating the information so some may still opt for the appointments of a third party to produce this on their behalf.

22. Can a Health & Safety Advisor assist both the Clients and the Principal Designer or is there a conflict of interest?

Yes. A Health and Safety Advisor can carry out both roles for the Client and the Principal Designer. The only issue is in regards to auditing the role of Principal Designer on the Clients behalf. This could be out sourced to a third party as this could be seen as a conflict of interest. However the scope of services provided by Health and Safety advisors can incorporate one or both services to the Client.

23. What happens if you fail to comply with the new CDM 2015 Regulations?

The HSE are operating a Fee For Intervention Cost recovery Scheme (FFI). They investigate incidents and complaints of breaches in health and safety (CDM Regulations). If a material breach of health and safety law is discovered then a fine will be issued.

The fine is based on the amount of time that the inspector has had to spend identifying the breach, helping the company to correct it, investigating and taking enforcement action.

All duty holders will have to ensure compliance with individual duties to avoid a possible fine should a material breach be identified.

24. How will the regulations affect smaller projects that were previously not Notifiable? For example repair works at Schools?

Client's duties will be applicable on all construction projects, irrespective on the duration of the construction works. Therefore there will be a dramatic change to how schools manage construction projects. Smaller projects (less than 30 days) will now ideally require a specific client brief to ensure all elements of the regulations have been considered. The Client will need to make sure that the project is notified to the HSE if a project is expected to last longer than:

- 30 working days and have more than 20 workers working on the project at any one time, or
- exceed 500 person days,

Further information on how to notify construction work can be found at www.hse.gov.uk/construction/cdm/faq/notification.htm. However under CDM 2015 the notification period is no longer a trigger for additional appointments. The Principal Contractor and Principal Designer are to be appointed by a Client on any project where there will be more than one contractor engaged. The Client will also now need to ensure a Construction Phase Plan is produced by Contractors/Principal Contractors on every project

25. If a designer (such as an Architect) is asked to return to a project where they were previously Principal Designer will they again be responsible for the Principal Designer duties?

It is possible, it depends why they have returned to the project and the level of involvement required. This will be decided by the design team and dependant on the brief and the control of the design process established at the beginning of the scheme.

26. What is expected to happen when CDM 2015 comes into force on 6 April 2015?

There will be a transitional period that will run for six months from 6 April 2015 to 6 October 2015. For projects starting before 6 April 2015, where the construction phase has not yet started and the client has not yet appointed a CDM co-ordinator, the client must appoint a Principal Designer as soon as it is practicable. If the CDM co-ordinator has already been appointed, a Principal Designer must be appointed by 6 October 2015, unless the project comes to an end before then.

27. Do the CDM 2015 Regulations now apply to Temporary works/Structures?

Previously this did not come under CDM regulations. Now all temporary structures need to comply with the CDM 2015 regulations which require the Construction Sites Directive to be applied to any project which includes construction (which is defined as working on a structure erecting/maintaining/dismantling).

Whenever there is more than one contractor working on a project a Principal Designer and a Principal Contractor must be appointed in writing by the Client and those appointed must perform specified duties. CDM 2015 Regulations implement a European directive, which does not permit exceptions for particular types of construction work, including erection and dismantling of temporary structures for TV, film and theatre productions and live events, wherever it is carried out. The definition of construction work is broad and encompasses a wide range of activity in the entertainment sectors from high to low risk work.

28. What can Baily Garner (Health & Safety) Ltd do for me in relation to the CDM 2015 changes?

We have developed a range of services that can be scoped according to your business' requirements. For example, we can assist with the role of Principal Designer, provide relevant Management Systems and third party auditing and offer fully accredited training to equip you for the changes.

Please contact health.safety@bailygarner.co.uk for more information on our CDM Compliance Advisor scope of services and Training.

29. How can we help?

Baily Garner (Health & Safety) Ltd have a wealth of experience built up over many years in the construction industry. We are able to ensure compliance with the CDM 2015 Regulations by introducing a range of services to ensure compliance;

- Baily Garner will work with the client to either utilise an existing format or develop a bespoke Health and Safety File format to meet the needs of the project and the CDM 2015 Regulations
- Facilitate meetings on site with the project team to present the agreed format, content and deadlines.
- Advise duty holders of "What they must do" in relation to the Health & Safety File including Principal Designers and Principal Contractors.

- Aid and assist the project team to fulfil their duties in the provision of accurate and relevant information.
- Monitor Progress by introducing and develop a bespoke 'Health and Safety File Tracker' which will ensure the Health and Safety File is updated, reviewed and revised as necessary as the project progresses.
- Gathering and compiling information from all relevant parties and formatting into pre-agreed format
- Delivering the completed Health & Safety File in the agreed format to the client
- A full scope of our services is available on requested

30. When do you have to notify the HSE of a project?

The Client will need to notify the HSE of projects before works commence if they will exceed;

- a) 30 construction days with 20 or more workers working simultaneously
- b) or if the project exceeds 500 person days

31. Who is responsible for producing the Health and Safety File? When do you need to produce a Health and Safety File?

The Principal Designer now has primary responsibility for preparing the file, and reviewing, updating and revising it as the project progresses and they must also pass the completed file to the client to keep. If the Principal Designer's appointment finishes before the end of the project, the file must be passed to the Principal Contractor for the remainder of the project. The Principal Contractor must then take on the responsibility for reviewing, updating and revising it and passing it to the client when the project finishes. A health and safety file is only required for projects involving more than one contractor.

32. What is the health and safety file?

The health and safety file is defined as a file appropriate to the characteristics of the project, containing relevant health and safety information to be taken into account during any subsequent project.

The file must contain information needed to ensure health and safety during any project such as maintenance, cleaning, refurbishment or demolition. Information on the following should be considered for inclusion in the file:

- a brief description of the work carried out;
- any hazards that have not been eliminated through the design and construction processes, and how they have been addressed (e.g. surveys or other information concerning asbestos or contaminated land);
- key structural principles (e.g. bracing, sources of substantial stored energy – including pre- or post-tensioned members) and safe working loads for floors and roofs;
- hazardous materials used (e.g. lead paints and special coatings);
- information regarding the removal or dismantling of installed plant and equipment (e.g. any special arrangements for lifting such equipment);
- health and safety information about equipment provided for cleaning or maintaining the structure;
- the nature, location and markings of significant services, including underground cables; gas supply equipment; fire-fighting services etc;
- Information and as-built drawings of the building, its plant and equipment (e.g. the means of safe access to and from service voids and fire doors).

33. The Pre-construction Information pack has now gone. Who is now responsible for pre-construction information? What is pre-construction information?

It is the Clients duty to provide Pre Construction Information to the project team. For projects with more than one contractor, the Client can expect to receive help from the Principal Designer in drawing this information together. They have a duty to assist the Client in this. Pre-construction information provides the health and safety information needed by;

- a) designers and contractors who are bidding for work on the project, or who have already been appointed to enable them to carry out their duties;
- b) Principal Designers and Principal Contractors in planning, managing, monitoring and co-ordinating the work of the project.

Pre-construction information is defined as information about the project that is already in the client's possession or which is reasonably obtainable by or

on behalf of the client. The information must:

- be relevant to the particular project;
- have an appropriate level of detail; and
- be proportionate given the health or safety risks involved

34. What is a construction phase plan?

A construction phase plan is a document that must record the:

- a) health and safety arrangements for the construction phase;
- b) site rules; and
- c) where relevant, specific measures concerning work that falls within one or more of the categories listed in Schedule 3.

The plan must record the arrangements for managing the significant health and safety risks associated with the construction phase of a project. It is the basis for communicating these arrangements to all those involved in the construction phase so it should be easy to understand and be as simple as possible.

In considering what information is included, the emphasis is that it:

- is relevant to the project:
- has sufficient detail to clearly set out the arrangements, site rules and special measures needed to manage the construction phase ; but
- is still proportionate to the scale and complexity of the project and the risks involved.

A Construction Phase Plan is now required on all construction projects, even where only one contractor is engaged.

35. How as a company will Baily Garner (Health & Safety) Ltd's services change to meet the new Regulations?

Baily Garner (Health & Safety) Ltd can be appointed as a Health & Safety Compliance Advisor to Clients and Principal Designers to assist and provide advice and guidance on their CDM Duties. The legal duty will always remain with the Clients and Principal Designers however we can assist with the process to demonstrate compliance.

Change to processes

Our Project Information Register will be used as our main tool to address all relevant H&S Information instead of the usual Information Pack which will be obsolete from 6th April 2015. This will be supplemented with guidance (similar to the Information Pack) and will be issued to the Contractors and Principal Contractors in the usual manner.

The Principal Contractor/Contractor will still be required to issue their Construction Phase Plans to ourselves, on behalf of the Client, in the usual manner. We can then review the plans to ensure they have been suitable drawn up and advise our Clients as necessary.

We can continue to notify the HSE of Notifiable projects on our Clients behalf as we have done under CDM 2007. We will also be issuing regular updates through the process.

In addition to the above we will be carrying out CDM Compliance Appraisals to ensure all aspects of CDM and H&S have been addressed as part of the design development, procurement and construction process this will involve monitoring the Principal Designer (Lead Designer) and the Principal Contractor. Where the Client's Principal Designer is not able to produce the Health & Safety File for the project we can also take this on, under the CDM Compliance Advisor role to the Client.