Construction (Design and Management) Regulations 2007

A Review of the Changes to the Client’s Responsibilities and the Other Key Duty Holders as Outlined in the CDM Approved Code of Practice Produced and Issued by the HSE February 2007

Report 1

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Introduction

The Construction (Design and Management) Regulations 1994, hereafter referred to as CDM, were first introduced into UK construction law, on the 30th March 1995 after undergoing a torturous 2 year consultation process.

The process was tortuous because for the first time in construction history, Clients and Designers were to be given specific legal responsibilities for the roles they play in influencing safety in the design, construction, maintenance and eventual demolition of structures.

On top of this a new role, the Planning Supervisor (PS) was introduced to the industry, with the expectation that these “Safety Gurus” would provide a focus around which all safety related matters would be discussed, reviewed and resolved.

The first 5 years were a steep learning curve for everyone and not everyone measured up to the challenges. For example, as a consequence of the additional costs involved for implementation, many Clients ignored their responsibilities, or attempted to dilute the cost impact by delaying the appointment of the PS until the design was substantially completed.

As the costs of PS work is, generally, not significant, this reluctance to get the PS on board at the appropriate time, did nothing to add value to the process. Indeed, as a consequence of late appointments, the experience that many competent PSs could have brought to the project was lost and the quality of the documentation that was presented to contractors for tendering, was at best perfunctory and at worst, unreliable and useless.

Client’s lack of commitment or understanding resulted in contractors receiving poor information and understandably complaining that this was impacting on cost and programme and that they had to deal with the consequences of lack of useful information at tender stage.

Designers also failed to use this opportunity to practice “safety in design” techniques and to understand the important influence they could have on safety. Many design practices continued to rely on the contractor’s knowledge and experience, as was the case before 1995 and did little to educate themselves about the “hierarchy of risk control” i.e. the process that directs the designer to the elimination or reduction of risks for constructors and maintenance personnel, to meet their responsibilities under the new Regulations.

This was reported in surveys undertaken by the HSE and it was due to lack of understanding of the construction process and the options available to designers when considering safety in design issues.

As a consequence of the failures of Clients and Designers, the Regulations were revised and a new Approved Code of Practice (ACOP) issued in the year 2000. The new ACOP set out to make the Regulations more effective by issuing explicit advice for all “Duty Holders” so that everyone could understand what they needed to do, to comply with the revised CDM Regulations.
It has to be said that the Major Contractors Group made a serious effort to play their part in improving the management of safety on their sites and the HSE statistics show a gradual reduction in fatalities for the period 1995 to 2000.

However, the industry was still responsible for the deaths of 105 people in the period 1999/2000 and the public demanded action. The Labour Government initiated a summit in 2000 attended by representatives from all the contractors groups, to take a hard look at the industry and to agree aggressive targets to reduce the death toll.

This has become known as the “Re-thinking Construction Summit” and the contractors groups are to be congratulated in achieving the targets set for the reduction in fatal accidents for the first 5 year period. From a high of 105 in 1999/2000 the HSE has reported that the numbers of fatal accidents recorded for 2005/06 is 61, the lowest ever recorded in construction. That’s still more than 1 person each week dying as a consequence of working in construction, so there is no room for complacency, but at least the figures are moving in the right direction.

**New Construction (Design and Management) Regulations 2007.**

Construction remains a disproportionately dangerous industry where improvements in health and safety are urgently needed. The improvements require significant and permanent changes in duty-holder attitudes and behaviour. Since CDM 94 was introduced in 1995, concerns have been raised that their complexity and the bureaucratic approach of many duty-holders frustrate the Regulations’ underlying health and safety objectives. These views were supported by an industry wide consultation in 2002, resulting in the HSC’s decision to revise the Regulations.

The new simplified CDM Regulations will revise and bring together the existing CDM 1994 and the Construction (Health, Safety and Welfare) Regulations 1996, into a single regulatory package. They will be supported by an Approved Code of Practice (ACoP) and industry approved guidance.

To give construction and design professionals time to plan and prepare for the regulatory changes, the HSE had originally stated that the ACoP would be available in January 2007, three months before the Regulations come into force. This turned out to be optimistic and the new ACoP was eventually published and made available to the industry, on 19th February 2007.

The new CDM Regulations offer an opportunity for a step change in health and safety performance and will be used to re-emphasise the health, safety and broader business benefits of a well managed and co-ordinated approach to the management of health and safety in construction.

In the Introduction to the new ACoP the Health and Safety Commission (HSC) set out a summary of a report from the Royal Academy of Engineering on “The Long Term Costs of Owning and Using Buildings (1998) that noted that the “typical operating and owning costs of a building are in the ratio:

- 1 for construction costs
- 5 for maintenance and operating costs and
• 200 for business operating costs.

From an owner operator perspective, it becomes obvious from the report that directing ones attention to good design practice and focusing on the whole life cycle costs of the construction design and delivery has got to good for business in the long term. This is at the heart the CDM Regulations.

Along with the need to consider safety in construction, maintenance and eventual demolition, the Regulations are Client focused. The aim of the Regulations is to provide a structured process within which all the duty holders can operate, to maximise the benefits that are brought to the table from the professionals that come together, to make up the Projects Team.

**Changes to the Regulation as outlined in the new ACoP**

**Changes to existing legislation will be outlined in Red**

**Application of the Regulations-(Reg 3 & 25)**

The Regulations are divided into 5 parts.

Part 1 deals with matters of interpretation and application.

Part 2 covers general management duties which apply to all construction projects, including those which are non-notifiable.

Part 3 sets out additional management duties which apply to projects above the notification threshold (projects lasting more than 30 days, or involving more than 500 person days of construction work). These additional duties require particular appointments or particular documents which will assist with the management of health and safety, from concept to completion.

Part 4 applies to all construction work carried out on construction sites and covers physical safeguards which need to be provided to prevent danger. Duties to achieve these standards are held by contractors who actually carry out the work, irrespective of whether they are employers or are self-employed. Duties are also held by those who do not undertake construction work themselves, but control the way in which the work is done.

Part 5 covers issues of civil liability; transitional provision which will apply during the period when the Regulations come into force and amendments and revocations of other legislation.

**Definitions-Reg 2-No Changes from the 94 Regs**

**Notifications to HSE-Regulations 2(3) & 21**

More than 30 days or
Involving more than 500 person days of construction work
Omitted-More than 4 persons on site and Demolition work lasting less than 30 days or involving less than 500 person days of work. However Regulation 29 does require a written plan for demolition work.

**Co-ordination and Co-operation-Regs 5 & 6**

Although there is no requirement for the formal appointment of a CDM-co-ordinator or Principal Contractor, or for a construction phase plan for non-notifiable projects, Regulation 5 and 6 do require co-operation and co-ordination between all members of the projects team.

For low-risk projects, a low-key approach will be sufficient. In higher-risk projects, for example those involving demolition, a more rigorous approach to co-ordination, co-operation and planning will be needed.

It is vital that those undertaking the work understand the risks involved and what to do about them. If the risks are low and the precautions well understood by those carrying out the work, then there will be no need for a written plan. In other simple cases, a brief summary that clearly sets out who does what and in what order will be enough.

Where the risks are higher, for example where the work involves:-

- Structural alterations
- Deep excavations and those in unstable or contaminated ground
- Unusual working methods or safeguards
- Ionising radiation or other significant health hazards
- Nearby high voltage power lines
- A risk of falling into water which, or may become, fast flowing
- Diving
- Explosives
- Heavy or complex lifting operations-

Then something closer to the construction phase plan will be needed. When carrying out demolition work, Regulation 29 required those in control of the work, to produce a written plan showing how danger will be prevented.

**Taking Account of the General Principles of Prevention-Reg 7**

When considering what precautions are necessary to control risks associated with a project, everyone who has a duty under the Regulations, must take account of the general principles of prevention specified in Schedule 1 of the Management of Health and Safety at Work Regulations 1999. **These general principles are listed in Appendix 7.**
## Summary of the duties under the Regulations

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<tbody>
<tr>
<td><strong>Clients</strong></td>
<td>• Check competence and resources of all appointees.</td>
<td>• Appoint CDM co-ordinator.</td>
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<td></td>
<td>• Ensure suitable management arrangements for the project.</td>
<td>• Appoint Principal Contractor.</td>
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<td></td>
<td>• Allow sufficient time and resources for all stages.</td>
<td>• Make sure that construction phase does not start unless there are suitable welfare facilities and a construction phase plan is in place.</td>
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<td></td>
<td>• Provide pre-construction information to designers and contractors.</td>
<td>• Advise contractors at tender stage how much time has been allowed for mobilisation.</td>
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<td><strong>CDM co-ordinator</strong></td>
<td>• Advise and assist the Client with their duties:-</td>
<td>• Retain and provide access to the health and safety file.</td>
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<td>• Notify HSE</td>
<td>• Sign the Revised F10 Notification to the HSE</td>
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<td>• Co-ordinate health and safety aspects of design work and co-operate with others involved in the project.</td>
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<td>• Facilitate good communications between Client, Designer and Contractors.</td>
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<td>• Ensure all relevant pre-construction information is provided in a timely fashion to those who need it.</td>
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<td></td>
<td>• Liaise with Principal Contractor regarding on-going design and</td>
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<td></td>
<td>• Prepare/update health and safety file.</td>
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<td><strong>Designer</strong></td>
<td>Eliminate hazards and reduce risks during design. Provide information about remaining risks.</td>
<td>• Check Client is aware of duties and CDM co-ordinator has been appointed.</td>
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<td>• Check HSE has been notified.</td>
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<td>• Provide any information needed for the health and safety file.</td>
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<tr>
<td><strong>Principal Contractor</strong></td>
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<td>• **Satisfy themselves that the Client is aware of his duties, that a CDM co-ordinator has been appointed and that the HSE has been notified.</td>
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### Principal Contractor (cont)

- 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 the specific requirements of part 4 of the Regulations.
- Ensure there are adequate welfare facilities for their workers.

- Ensure all workers have site inductions and any further information and training needed for the work.
- Consult with the workers.
- Liaise with CDM co-ordinator re on-going design.
- Secure the site.
- Provide the CDM-C with any information relevant for the Health and Safety File.

### 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 the specific requirements of part 4 of the Regulations.
- Ensure there are adequate welfare facilities for their workers.

- Check Client is aware of duties and a CDM co-ordinator has been appointed and HSE notified, before starting work.
- Co-operate with the Principal Contractor in planning and managing the work, including reasonable directions and site rules.
- Provide details to the Principal Contractor of any contractor whom he engages in connection with carrying out the work.
- Provide any information required for the health and safety file.
- Inform the Principal Contractor if there are any problems with the H&S plan.
| **All construction projects** | • Inform the Principal Contractor of reportable accidents, diseases and dangerous occurrences. |
| Everyone | • Check own competence.  
• Co-operate with others and co-ordinate work so as to ensure the health and safety of construction workers and others who may be affected by the work.  
• Report obvious risks.  
• Comply with the requirements in Schedule 3 and Part 4 of the Regulations for any work under their control. |

**Chapter 1-Clients**

- Para 24-The Client has one of the biggest influences over the way a project is run. They have substantial influence and contractual control and their decisions and approach determine:-  
  - The time money and other resources available for projects-  
  - Who makes up the projects team, their competence, when they are appointed and who does what-  
  - Whether the team is encouraged to co-operate and work together effectively-  
  - Whether the team have the information that they need about the site and any existing structures-  
  - The arrangements for managing and co-ordination the work of the team.

Para 25-Because of this influence, Clients will be held accountable for the impact their approach has on the health and safety of those working on, or affected by the project.

Para 26-In the case of notifiable projects, the Client must appoint a competent CDM co-ordinator, Designer and Principal Contractor.

Para 27-Clients can also unwittingly take on additional responsibilities. If they specify materials or methods of working, they may well be considered as Designers in relation to those specific matters. They will also legally be considered as contractors, if they directly manage or carry out construction work.
**Who are Clients-Regulation 2.**

Para 28-A Client is an organisation or individual for whom a construction project is carried out. Clients only have duties when the project is associated with a business or other undertaking (whether for profit or not). This can include for example, local authorities, school governors, insurance companies and project originators on Private Finance Initiatives (PFI) projects. Domestic Clients are a special case and do not have duties under CDM 2007.

**The Clients Agent has been omitted**

Projects running that currently employ a Client’s Agent may continue to completion.

**What Clients must do for all projects-Regs 4-10 (Para 43)**

Client’s must ensure that:-

- Designers, contractors and other team members that they appoint, are competent, adequately resourced and are appointed early enough for the work they have to undertake-
- They allow sufficient time for each stage of the project, from concept onwards-
- They co-operate with others concerned in the project as necessary, to allow other duty holders to comply with their duties under the Regulations-
- They co-ordinate their own work with others involved in the project in order to ensure the safety of those carrying out the construction work and others who may be affected by it-
- There are reasonable management arrangements in place throughout the project to ensure that construction work can be carried out, so far as is reasonably practicable, safely and without risk to health-
- Contractors have made arrangements for suitable welfare facilities to be provided from the start and throughout the construction phase-
- Any fixed workplaces (eg offices, shops, factories, schools) which are to be constructed, will comply in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992.
- Relevant information likely to be needed by designers, contractors, or others, to plan and manage their work, is passed to them in order to comply with Regulation 10.

**Co-operation, Co-ordination, Timeliness and Resources-Regs 5,6 & 9 (P44-46)**

Unrealistic deadlines and a failure to allocate sufficient funds are two of the largest contributors to poor control of risk on site. When engaging Designers and Contractors and for Notifiable projects appointing CDM co-ordinators and Principal Contractors, Clients have to consider the resources (eg staff, equipment and particularly time) needed to plan and undertake the work properly.
Any contractors being considered for appointment should be informed of the minimum time period allowed to them, for planning and preparation before construction begins on site. Contractors should be given sufficient time after their appointment to allow them to plan the work and mobilise the necessary equipment (eg; welfare facilities) and staff, to allow the work to proceed without risk to health.

This is particularly important where the project involves demolition work. Contractors must be given sufficient time for the planning and safe execution of any demolition activities.

Clients should consult with appointees (including the Principal Contractor) to find out how much time they will need for planning and preparation, before work is expected to start, in order that both parties can agree a suitable time period. Similarly, CDM co-ordinators will need sufficient time after their appointment, to carry out their duties under the Regulations. Clients must then inform their appointees (projects team) how much time the Client has allowed for planning and preparation, before the work starts.

**Arranging Design Work-Reg 4 & 5 (Para 47-48)**

Clients must employ competent designers with sufficient time and resources to undertake their duties that allow designers to comply with Regulation 11 of CDM 2007.

The Client must advise the design team on the time allocated for planning and preparation, prior to the commencement of construction work on site.

**Management Arrangements-Reg 9 (Para 49-54)**

Clients are required to take reasonable steps to ensure that suitable management arrangements are in place throughout the life of the project, so that work can be carried out safely and without risk to health. The arrangements put in place should focus on the needs of the particular job and should be proportionate to the risks involved in the work.

**For non-notifiable projects the Client will need to ensure that arrangements are in place to ensure that:**

a) There is clarity as to the roles, functions and responsibilities of members of the project team

b) Those with duties under the Regulations, have sufficient time and resource to comply with their duties

c) There is good communication, co-ordination and co-operation between members of the projects team (eg between designers and contractors)

d) Designers are able to confirm that their designs (and any design changes) have taken account of the requirements of Regulation 11 (Designers duties) and that the different design elements will work together, in a way that does not create risks to the health and safety of those constructing, using or maintaining the structure

e) That the contractor has been provided with the pre-construction information (see paragraphs 53-56)

f) Contractors are able to confirm that health and safety standards on site will be controlled and monitored and that welfare facilities will be provided by the
contractor, from the start of the construction phase, through to hand-over and completion

Providing Pre-construction Information-Reg 10 (Para 55-60)

The pre-construction information that Clients must provide to tendering contractors has not been changed. Appendix 2 provides a list of topics that should be considered when drawing up the list of pre-construction information. This information is similar to that required under the 1994 Regulations and contained within the “Pre-Construction Health and Safety Plan.” This information must be passed to the CDM co-ordinator in good time, to allow him to disseminate the information to the appropriate parties.

Welfare Arrangements-Regs 5 & 6 (Para 61)

Clients do not have to provide welfare facilities for construction workers, but if there are particular constraints which make it difficult for facilities to be provided, the Client should co-operate with contractors and assist them with their arrangements.

Clients and contractors must ensure that suitable welfare facilities are available from the start of the works on site and adequately maintained through to completion.

Additional things Clients must do for Notifiable projects-Regs 14, 15, 16 & 17 (Para 62-63)

Appoint a CDM co-ordinator

Appoint a Principal Contractor

Ensure the construction phase does not start until the Principal Contractor has prepared a suitable construction phase health and safety plan and made arrangements for suitable welfare facilities to be present from the start of the work.

Make sure the health and safety file is prepared, reviewed or updated ready for hand-over at the end of the construction work. This must be kept available for future construction work, or to pass onto a new owner.

Appointing the right people and making early appointments of the CDM co-ordinator and the Principal Contractor is important, both for compliance with the Regulations and to ensure the knowledge and experience of both add value to the process.

Where Clients fail to make these appointments at the appropriate time, the Client becomes legally liable for the work that the CDM Co-ordinator and the Principal Contractor should do, as well as for not making the appointments.
Appointment of the CDM co-ordinator-Reg 4 & 14 (Para 64-68)

The Client must appoint a competent, adequately resourced CDM Co-ordinator, as soon as practicable after initial design work, or other preparations for construction work have begun.

Guidance on the assessment of competence of a CDM co-ordinator, can be found in Chapter 6.

Early appointment is crucial for effective planning and establishing management arrangements from the start. The Regulations require the appointment to take place, as soon as is practicable after initial design work, or other preparation for construction work, has begun.

This allows the Client to appraise their project needs and objectives, including the business case and any possible constraints on development, to enable the Client to decide whether or not to proceed, before appointing the CDM co-ordinator.

The CDM co-ordinator needs to be in a position to be able to co-ordinate design work and advise on the suitability and compatibility of designs and therefore they should be appointed before significant detailed design work begins.

**Significant detailed design work includes preparation of the initial concept design and implementation of any strategic brief.**

As a scheme moves into the detailed design stage, it becomes more difficult to make fundamental changes that eliminate hazards and reduce risks associated with early design decisions.

Proper consideration of the health and safety implications of the design for those who build and maintain the structure, will make a significant contribution to reducing its whole life costs and make delivery to time, cost and quality more likely and achievable.

It has been agreed with the Senior management in the Projects Section, that in general, the CDM Co-ordinator will be appointed at the commencement of RIBA Stage C. It has also been agreed that a CDM-C will always be appointed in good time to review design intent, where Local Authority planning applications are required.

Appointment of the Principal Contractor-Reg 4 & 14 (Para 69-74)

Early appointment is essential for the PC to have sufficient time to develop an adequate construction phase H&S plan and to arrange for the appropriate resources, including welfare facilities, to be available when work commences on site. Providing welfare facilities when work starts on site is a specific duty on the PC, but the Client also has a duty to make sure the PC has done so.

Mobilisation Time

Principal Contractors should be told, as part of the pre-construction information, the minimum amount of time which they will be given, for planning and preparation before the construction work is expected to start on site. (Reg 10(2)(c)
There can be only one Principal Contractor at any one time. To ensure continuity, Clients should normally keep the same Principal Contractor for the whole project, from site clearance and preparation, to final completion and hand-over. However, there may be exceptions, for example where:-

- 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 the building shell and subsequent fitting-out works-

In these cases and change in Principal Contractor should:-

- Be clear to and agreed by all those involved, particularly in relation to the timing of the change- 
- Be clearly recorded- 
- Provide the practical authority to enable the Principal Contractor to discharge his duties-

**Management Arrangements-Reg 9 (Para 75)**

For Notifiable projects Clients must appoint a competent CDM co-ordinator, to assist with the assessments of adequacy of the management arrangements made by others in the team. **Having appointed a competent CDM co-ordinator, the Client is entitled to rely on their advice when making these judgements.**

**Before the Construction Phase Begins-Reg 16 (Para 76)**

For Notifiable projects, before construction work begins, Clients must check to ensure that suitable welfare facilities have been provided by the PC and that the construction phase health and safety plan has been prepared by the PC. With the help of the CDM co-ordinator, Clients must ensure that the plan is project specific and suitable.

**Guidance on the Content of the Construction Phase Plan is given in Chapter 4.**

**The Health and Safety File-Reg 17 (Para 78 and 79)**

Para 258 Chapter 8—The scope, structure and format for the file should be agreed between the Client and the CDM 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 may be combined with the Building Regulations Log Book, or a maintenance manual, provided 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 easily and that any differences between structures are clearly shown.
What Clients don’t have to do. (Para 83)

Clients are not required, or expected to:

- Plan or manage construction projects themselves-
- Specify how work must be done, eg; requiring a structure to be demolished by hand. Indeed they should not do so, unless they have the expertise to assess the various options and risks involved.
- Provide welfare facilities for those carrying out construction work (though they should co-operate with the contractor to assist with his arrangements) (refer to Para 61 for Client’s duty on welfare provision)
- Check designs to make sure Regulation 11 has been complied with-
- Visit the site (to supervise or check construction work standards)-
- Employ third party assurance advisors, to monitor health and safety standards on site (though there may be benefits to the Client in doing so)-
- Subscribe to third party competence assessment schemes (though there may be benefits to the Client in doing so).

Chapter 2-The CDM Co-ordinator (Notifiable Projects Only)

Para 84- The role of the CDM co-ordinator is to provide the Client with a key project advisor in respect of construction health and safety risk management matters. They should assist and advise the Client on the appointment of competent contractors and the adequacy of management arrangements; ensure proper co-ordination of the health and safety aspects of the design process; facilitate good communications and co-operation between project team members and prepare the health and safety file.

Para 85- Through early involvement with Clients and designers, a CDM co-ordinator can make a significant contribution to reducing risks to workers during construction and to contractors and end users who work on, or in the structure, after construction.

Appointing the CDM Co-ordinator-Reg 14

Para 86- Early appointment of the CDM Co-ordinator is crucial for effective planning and establishing management arrangements from the start. The Regulations require the appointment to take place, as soon as is practicable after initial design work, or other preparations for construction work has begun.

This allows the Client to appraise their projects needs and objectives, including the business case and any possible constraints on development to enable them to decide whether or not to proceed, before appointing the CDM co-ordinator.
The CDM co-ordinator needs to be in a position to be able to co-ordinate the health and safety aspects of the design work and advise on the suitability and compatibility of the designs. They should therefore be appointed before significant detailed design work begins.

Significant detailed design work includes preparation of the initial concept design and implementation of any strategic brief.

As a scheme moves into the detailed design stage, it becomes more difficult to make fundamental changes that eliminate hazards and reduce risks associated with early design decisions.

Para 87 - Proper consideration of the health and safety implications of the design for those who build and maintain the structure, will make a significant contribution to reducing its whole life costs and will make delivery to time, cost and quality more likely.

**What CDM co-ordinators should do (Regulation 20)**

Para 90 CDM Co-ordinators must:-

a) Give suitable and sufficient advice and assistance to Clients in order to help them comply with their duties, in particular:-

b) The duty to appoint competent designers and contractors and
c) The duty to ensure that adequate arrangements are in place for managing the project;
d) Notify the HSE about the project-
e) Co-ordinate design work, planning and other preparation for construction where relevant to health and safety-
f) Identify and collect the pre-construction information and advise the Client if surveys need to be commissioned to fill significant gaps-
g) Promptly provide in a convenient form to those involved in the design of the structure and to every contractor (including the Principal Contractor) who may be, or has been appointed by the Client, such parts of the pre-construction plan that may be relevant to each-
h) Manage the flow of health and safety information between Clients, designers and contractors-
i) Advise the Client on the suitability of the initial construction phase plan and the arrangements made to ensure welfare facilities are on site from the start-
j) Produce or up-date, a relevant, user friendly health and safety file suitable for future use, at the end of the construction phase.

**Advising the Client on the Adequacy of Management Arrangements-Regs 9 & 20**

Para 96-The CDM co-ordinator should assist with the development of the management arrangements and should advise the Client on whether or not the arrangements are adequate.

They should assist the Client with decisions about how much time the contractor will need to prepare before construction work begins.
This is a new requirement for the Client and the CDM co-ordinator has a duty to advise the Client regarding adequate time for mobilisation, from the time of appointment of the contractor, to the time the construction work commences on site.

Co-ordinating design work-Design Reviews Regulation 20

Refer to Paragraphs 98 to 102 for more information.

The CDM Co-ordinator and the Construction Phase-Regulation 20

Para 103-Where design changes and decisions during the construction phase have significant health and safety implications, CDM co-ordinators should liaise with the Principal Contractor about any implications for the construction phase plan.

Para 104-The design of temporary works, such as false work, formwork and scaffolding, falls within the scope of CDM 2007. CDM co-ordinators have to take reasonable steps to ensure co-operation between permanent and temporary works designers, in particular to ensure that arrangements are in place to ensure designs are compatible and that the permanent works can support any loadings from the temporary works.

The Health and Safety File-Regulations 17 and 20

Para 106-CDM co-ordinators must prepare a suitable health and safety file, or update an existing file. It is important that they discuss this with the Client before work starts on site, so that the format can be agreed, along with who should provide what information and when. This requires co-operation between several duty holders, so CDM co-ordinators need to make sure that the designers and the contractors know early on, what information they have to provide.

Para 107-Clients may need to provide incentives, or include requirements in contracts, to ensure the information is provided to the CDM co-ordinator at the appropriate time. At the end of a project the CDM co-ordinator should give the completed file to the Client for safe-keeping. (Chapter 8 and Paragraph 262 provide more information on the health and safety file).

What CDM co-ordinators don’t have to do.

Para 108-CDM Co-ordinators don’t have to:-

a) approve the appointment of designers, Principal Contractors and 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, reduce and control risks-
c) approve the Principal Contractors construction phase health and safety plan, although they have to able to advise the Client on its adequacy at the start of the construction work-
d) supervise the Principal Contractors implementation of the construction phase health and safety plan, or
e) supervise or monitor construction work-this is the responsibility of the Principal Contractor.

NB-The revised Regulations imply that the CDM-C should put more emphasis on the management of information and this would include the quality of the information contained within the Health and Safety File. Although the revised Regulations state that the CDM-C should “produce” the Health and Safety File, the current feeling amongst Planning Supervisors is that their current role won’t change, but that the emphasis is on quality of the information contained within the finished documents. The truth is this element of the CDM-C’s role will only become clear, when tested in the courts.

**Chapter 3-Designers**

Para 109-Designers are in a unique position to reduce the risks that arise during construction work and a have a key role to play in CDM 2007. Designs develop from initial concepts through to a detailed specification, often involving different teams and people at different 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.

Para 110-Designers earliest decisions fundamentally affect the health and safety of construction work. 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 start.

**Who are Designers? Reg 2 (Para 115-118)**

The definition of who is considered to be a designer and therefore has designer’s duties under Regulation 11 of the CDM 2007, has not been changed and still includes persons who prepare designs for construction work, including variations. This includes drawings, detailed designs, specifications and bills of quantities and specifications (or prohibition) or articles and substances, as well as all the related analysis, calculations and preparatory work, or arranging for their employees, or other people under their control to prepare designs relating to a structure, or part of a structure.

**What Designers should do for all projects. (Reg 4,5, 6,11 & 18) (Para 119-120)**

Designers Should:-

a) make sure that they are competent and adequately resourced to address the health and safety issues likely to be involved in the design-
b) check that Clients are aware of their duties-
c) when carrying out design work, avoid foreseeable risks to those involved in the construction and future use of the structure and in doing so, they should eliminate hazards (so far as is reasonably practicable, taking account of other design considerations) and reduce risks associated with those hazards that remain-
d) provide adequate information about any significant risks associated with the design-
e) co-ordinate their work with that of others, in order to improve the way in which risks are managed and controlled.

Para 120-In carrying out these duties, designers need to consider the hazards and risks to those who:-

a) carry out construction work, including demolition-
b) clean any window or transparent or translucent wall, ceiling or roof or on a structure, or maintain the permanent fixtures and fittings-
c) use a structure designed as a place of work-
d) may be affected by such work, for example customers or the general public.

Additional duties where the project is Notifiable-Para 139

In addition to the duties outlined above, when the project is Notifiable, Designers should:-

a) ensure that the Client has appointed a CDM co-ordinator-
b) ensure that they do not start design work, other than initial design work, unless a CDM co-ordinator has been appointed-
c) co-operate with the CDM Co-ordinator, Principal Contractor and with any other designers or contractors as necessary for each of them to comply with their duties. This includes providing any information for the pre-construction information pack, or health and safety file.

Para 140-For a Notifiable project, designers need to ensure that a CDM co-ordinator has been appointed and that the HSE has been notified about the project. If appointment and notification have been done, then designers can assume that the Client is aware of their duties.

Para 141-Early appointment of the CDM co-ordinator is crucial for effective planning and establishing effective management arrangements from the start. The Regulations require the appointment to take place as soon as is practicable after initial design work, or other preparation for construction work has begun.

Guidance on the timing of appointment of the CDM co-ordinator, is given in Paragraph 66 in Chapter 2.

**For practical purposes it would appear that the appointment of the CDM co-ordinator would normally take place, at the commencement of RIBA Stage C.**
**What Designers Don’t Have to Do**

Para 143-Under CDM 2007, Designers do not have to:-

a) take into account, or provide information on unforeseen hazards-

b) 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 process, 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.

Para 144-Designers are not legally required to keep records the process through which they achieve a safe design, but it can be useful to record why certain key decisions were made. 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. This may reduce the likelihood of important decisions being reversed by those who may not fully understand the implications of doing so.

**Chapter 4-The Principal Contractor (Notifiable Projects Only)**

**What Principal Contractors must do.**

**Reg 4, 5, 6 and 22-24 and Part 4 of the Regulations. Para 150**

Principal Contractors must:-

a) satisfy themselves that Clients are aware of their duties, that a CDM co-ordinator has been appointed and the 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 project

c) ensure that the construction phase is properly planned, managed and monitored, with adequate resources and competent site management appropriate to the risk and activity

d) ensure that every contractor who will work on the project is informed of the minimum amount of time which they will be allowed for planning and preparation, before they begin work on site

e) ensure that all contractors are provided with the information about the project that they need to carry out the work safely and without risks to health. Requests from contractors for information should be met promptly

f) ensure safe working, co-ordination and co-operation between contractors

g) ensure that a suitable construction phase health and safety plan is:
   - prepared before construction begins-
   - developed in discussion with and communicated to, contractors affected by it
   - Implemented and
• Kept up to date as the project progresses-

h) satisfy themselves that the designers and contractors they employ are competent and adequately resourced-

i) ensure adequate welfare facilities are provided from the start of the construction phase-

j) take reasonable steps to prevent unauthorised access to the site-

k) prepare and enforce any necessary site rules

l) 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

m) liaise with the CDM co-ordinator on design carried out during the construction phase, including designs by specialist contractors and its implications for “the plan”

n) provide the CDM co-ordinator promptly with any information relevant to the health and safety file

o) ensure all workers have been provided with suitable health and safety induction, information and training

p) ensure the workforce is consulted about health and safety matters-

q) display the project notification.

Chapter 5-Contractors and the Self Employed

Additional Duties for Notifiable Projects       (Para 187)

In the case of Notifiable projects contractors must:

a) check that a CDM co-ordinator has been appointed and the HSE notified before they start work on site-

b) co-operate with the Principal Contractor, CDM co-ordinator and others working on the project, or adjacent sites-

c) tell the Principal Contractor about risks to others created by their work-

d) provide details to the Principal Contractor of any contractor whom he engages in connection with carrying out the work-

e) comply with any reasonable directions from the Principal Contractor and with any rules in the health and safety plan-

f) 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-

g) tell the Principal Contractor about accidents and dangerous occurrences-

h) provide information about the health and safety file.

Please refer to Report Section 2 for an expanded summary and conclusions regarding the Clients role and responsibilities anticipated under the revised CDM Regulations 2007.