

ADVISORY NOTE FOR CHURCHWARDENS ON THE CONSTRUCTION (DESIGN & MANAGEMENT) REGULATIONS 2015

Churchwardens will be familiar with the Construction (Design & Management) Regulations 2007 which impose legal obligations with regards to health and safety on **clients** of construction projects as well as on other members of the design and construction team. As from 06 April 2015, these regulations will be superseded by the **Construction (Design & Management) Regulations 2015** (CDM2015). There are a number of changes being made in the regulations from that date of which you need to be aware.

CDM2015 PRINCIPAL CHANGES

The principal changes from the 2007 Regulations are as follows:

- CDM2015 now applies to **all** clients of construction projects, whether or not a person is acting in the course or furtherance of a business
- Pre-construction archaeological investigations are now excluded from the definition of construction work
- The role of CDM Coordinator has been removed and replaced by that of Principal Designer
- Various duties have been recast including client duties (Regulation 4) and general duties (Regulation 8)
- Non-domestic clients are now responsible for some of the duties previously carried out by the former position of CDM Co-ordinator and these duties will now fall to whoever acts as “client” for any church construction project
- A client is now required to appoint a Principal Designer as well as a Principal Contractor in any project where there is (or it is reasonably foreseeable that there will be) more than one contractor working on the project
- A Construction Phase Plan is now required for **all** projects regardless of value or duration
- The duty to notify the HSE of the construction project now lies with the client
- The threshold for notification of the Health & Safety Executive has been raised and is now required only when construction work is scheduled to last longer than 30 days **and** have more than 20 workers working simultaneously at any point in the project **or** exceed 500 person days
- The trigger for the requirement for the appointment of the Principal Designer (previously CDM Coordinator) or the Principal Contractor is no longer the need for notification of the project but whether there will be more than one contractor working on the project

Note that “construction work” according to CDM 2015 is extremely wide-ranging and means the carrying out of **any** building, civil engineering or engineering construction work and includes the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance **and** the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, telecommunications, computer or similar services which are

normally fixed within or to a structure. It is thus extremely likely that most, if not all, work which a Parish undertakes to the fabric of a church building will fall within the remit of CDM2015.

THE NEW ROLE OF PRINCIPAL DESIGNER

The major change is the replacement of the CDM Coordinator position by the new Principal Designer (PD) role. The PD has a more central role in the project than that of the former CDM Coordinator as they must be a designer with control over the pre-construction phase of the project which includes all design and preparation work for the construction project. The PD is required to coordinate all health and safety matters relating to the pre-construction phase alongside the overall planning, management and monitoring of the pre-construction phase of the project.

The PD is expected to be a client appointment from within the design team and may be the Architect, Structural Engineer or Services Engineer depending on the nature of the construction project. Note that this is an additional appointment over and above their existing "design" appointment and it is anticipated that the PD will charge additional fees to cover their new duties.

The PD will be responsible for:

- Eliminating or controlling risk throughout the pre-construction phase
- Assisting the client with the provision of the pre-construction information
- Make certain that all designers comply with their duties
- Ensuring cooperation between all parties during the pre-construction phase
- Ensuring that the Principal Contractor (PC) is kept updated during the construction phase
- Assisting the PC with the preparation of the Construction Phase Plan
- Preparing the Health and Safety file

SUMMARY OF CLIENT DUTIES

Client duties now include:

- Ensuring that construction work is carried out, so far as reasonably practicable, without risk to the health and safety of workers
- Issuing of the Notification of Project (Form F10) which is required prior to commencement of construction
- Ensuring that the Principal Designer and Principal Contractor comply with their duties
- Provision and dissemination of pre-construction information
- Ensuring that a Construction Phase Plan is prepared by the Principal Contractor (or by the Contractor if there is only one) prior to commencement of construction
- Ensuring that there are suitable welfare facilities on site prior to and during construction

- Ensuring that health and safety arrangements are maintained and reviewed throughout the project;
- Ensuring that the Principal Designer prepares a Health and Safety file;
- Taking reasonable steps to be satisfied that the designer(s) or contractor(s) have the skills, knowledge and experience and, if they are an organisation, the organisational capability necessary to fulfil the role that they are appointed to undertake

This is necessarily a brief summary of the CDM2015 duties and you are strongly advised to refer to the full legislation which is available at: <http://www.legislation.gov.uk/uksi/2015/51/contents/made>.

APPOINTMENT OF A CDM ADVISER

None of the above duties assigned to the client will be the responsibility of the new PD and so you may wish to appoint a specialist CDM Consultant to assist you and ensure that you meet your legal obligations although such an appointment is not mandatory. Of course this could be your Architect/Surveyor or your former CDM Co-ordinator if they have achieved CDM2015 accreditation from the Association for Project Safety (APS) or another recognised accreditation body. Such accreditation is recognised by the HSE as confirming appropriate competency under CDM2015. If you have appointed your Architect/Surveyor to act as PD and they are accredited as above, then you may wish to appoint them to advise you on your legal obligations as well. Again it is anticipated that your Architect/Surveyor will charge additional fees for this advice. You should note that the appointment of a CDM Adviser does not relieve you of your legal obligations to meet the requirements of CDM2015 and it is not possible to transfer the responsibilities for your duties as client to a CDM Adviser.

TRANSITIONAL PROVISIONS

Schedule 4 of CDM2015 provides transitional provisions for existing projects which began prior to 06 April 2015. Where no CDM Coordinator or Principal Contractor has been appointed under CDM2007 and there is more than one contractor on the project and the construction phase has started, you, as client, must appoint in writing a contractor as Principal Contractor as soon as possible after 06 April 2015. This Principal Contractor must as soon as practicable draw up a Construction Phase Plan as defined by Regulation 12 of CDM2015. Furthermore, if you do not appoint a Principal Designer, the Principal Contractor must prepare a Health & Safety File in accordance with Regulation 12. Should you fail to appoint a Principal Contractor, then you will be deemed to be fulfilling the duties of the Principal Contractor and you will attract the legal liabilities which accrue from such.

Where there is only one contractor on the project and the construction phase has started, this contractor must draw up the Construction Phase Plan in accordance with Regulation 15 as soon as is practicable after 06 April 2015.

Where an existing project has a CDM Coordinator, you must appoint a Principal Designer before 06 October 2015 unless the project ends on or before that date. During the interim period the existing CDM Coordinator must fulfil the duties set out in Paragraph 5 of Schedule 4 of CDM2015.

CONIAC Industry Guidance for Clients

A copy of the *CONIAC Industry Guidance for Clients* is attached to this advisory note.