

About the HBF

The Home Builders Federation (HBF) works with Government and stakeholders to develop housing policy in the UK. Membership gives companies a voice on current issues through inclusive and specialist representation and access to up to date information on policy development.

The HBF is the representative body of the home building industry in England and Wales. The HBF's membership account for around 80% of all new build homes built in any one year and include companies of all sizes, ranging from multi-national, household names through regionally based businesses to small local companies.

Question 1) *This Consultation Document sets out a new approach to CDM. HSE believes that this approach will be more easily understood by small or medium sized employers than the current one (set out in CDM 2007. Do you agree?*

Yes, the HBF agree that the changes will help in the light of the guidance. For example, good clarification re definition of work that does not include pre-construction archaeological investigations.

Question 2) *Please comment on any of the definitions in draft regulation 2 that you think are problematic.*

No, it will not be problematic for the HBF's members.

Question 3) *The technical standards have remained effectively unchanged. These are contained in Part 4 of the proposed Regulations. Is this approach acceptable to you?*

Yes.

Question 4) *CDM 2015 continues to place general duties on designers. HSE has redrafted the duties to make them clearer. In your opinion, are the designer duties clearer?*

Yes, but however we feel that the removal of the whole ACoP is not helpful. The loss of the ACoP possibly leaves open the new Regulations to be applied in an over-prescriptive manner. Our preference is that any guidance being produced will cover key points

relating to designer duties however we recognise it is preferable to trim down ACoP. Key items in ACoP that must remain in abridged ACoP or associated guidance:

ACoP 131

Designer provided info re risks...needs to be project specific, concentrate on significant risks which may not be obvious to those that use the design.

ACoP 133

Significant risks defined as:

- a) Not likely to be obvious to competent contractor or other designers'
- b) Unusual; or
- c) Likely to be difficult to manage effectively

ACoP 124

Health and safety considerations need to be weighed alongside other considerations in cost, fitness for purpose, aesthetics and build ability etc.

Question 5) *Do you think that these general duties on designers would be effective in considering relevant health and safety risks during subsequent construction work?*

Yes, providing that the revised ACoP or guidance provide clear definition for designers on their responsibility to consider health and safety risks during construction work.

Question 6) *Construction phase health and safety plans, proportionate to the risks involved, will be required for all projects. Currently, only projects lasting more than 30 days or 500 person-days need plans. Will there be any impacts for projects that currently do not require a plan?*

No, this will not affect the industry. A construction phase HSE plan is no more than what is required under the management of health and safety regulations.

Question 7) *HSE proposes to withdraw the CDM 2007 ACoP and replace it with a tailored suite of sector-specific guidance. Do you agree with this approach?*

No, the HBF does not agree with this approach. The ACoP has an invaluable status in the industry and if necessary should be modified but not removed entirely. It should provide a backbone for all sectors of the construction industry to consider should for example the HBF choose to develop sector specific guidance for its membership.

Question 8) *Please comment on whether there is any additional guidance that would be helpful.*

As noted we feel that the ACoP should remain (even in abridged version). This could provide the framework for additional (but not replacement) industry sector guidance.

- An interpretation by the house building sector.
- Sector specific in support of the ACoP.

Question 9) HSE believes that there is a need to bring the pre-construction co-ordination function into the project team that is in control of the pre-construction phase. This will be an effective way of achieving the aim of integrated risk management. Do you agree with this approach?

Yes, the responsibility of the 'Principal Designer' (PD) to coordinate the pre-construction information will improve the effectiveness of integrating the full team e.g. design, production and commercial into the production / provision of meaningful and realistic pre-construction information.

Question 10) CDM 2015 requires the appointment of a Principle Designer (PD) and Principal Contractor (PC) if a project involves more than one contractor. What would be the impacts for projects that do not currently require such appointments:

a) at the pre-construction phase?

The implication of this requirement is that if there is only one contractor, even if a large multi trade contractor, there would be no need for pre-construction information. We believe this is a flawed assumption, the development of pre-construction information is a discipline that encourages the team to look at the risks inherent in the design. The loss of pre-construction information, even when there is only one contractor, could be particularly damaging to the drive to improve health and safety in the construction industry given the recent trends in the industry, highlighted in CD261 paragraph 26:

"The balance of where serious and fatal injuries occur has shifted dramatically in the past 10-15 years. Two thirds or more of fatalities now occur on small sites – sites where fewer than 15 people work – which is the reverse of the historical picture"

b) at the construction phase?

Under CDM2007, other than considering the implications of any design changes, providing advice to the client and preparing a health and safety file, there is no role for a CDMC once the construction has started. We see no significant change here.

Question 11) The draft Regulations do not explicitly require clients to check the competence of organisations, before they are appointed to carry out construction work. However, this requirement is implicit in the duty in regulation 5 for clients to ensure adequate management arrangements. HSE believes that this will be clear to those reading the regulations. Do you?

Yes, the HBF agrees that it will be clear to those reading the regulations. Part of the adequate management arrangements (Client duty Reg 5) would be a means of ensuring operatives have received appropriate and adequate information, instruction, training and supervision (New Reg 8 CDM).

Question 12) What should be required of clients to ensure the competence of those they appoint and/or engage in addition to ensuring project management arrangements are adequate and effective?

The level of pre-start checks, monitoring and supervision should be proportionate to the experience that a client has working with a particular individual and/or contractor organisation. In addition to evidence i.e. training records that an individual has been informed and instructed in the correct method of undertaking work safely, then for example, past experience of working with individual/sub-contractor organisations and references from other clients when considering persons/organisations for future work should be sufficient. Management monitoring would be required, in particular for newly appointed individuals/organisations and this would be dependent upon the level of risk associated with the work activities being undertaken.

Question 13) *The draft Regulations replace the specific requirements for individual worker competence in CDM 2007 with a more general requirement. Under CDM 2015 those arranging for or instructing workers to carry out construction work should ensure that they have received sufficient information, instruction and training, and have adequate supervision. HSE believes that this will have no adverse effects on health and safety. Do you?*

The HBF agree with this position that the introduction under the new Regulations of the measure previously in CDM 2015 makes real sense and adds value (not ‘competence’ paperwork) i.e. that those arranging for persons to carry out construction work have a clear duty to ensure that persons have the relevant and sufficient information, instruction and training to carry out the job safely and that this must be supported by adequate supervision. This should be supported with robust site based induction training (in particular for the self-employed and labour-only employees) that in addition to outlining site rules also confirms specific work related competency of individuals.

This should have a positive effect on site based health and safety – it will be an improvement and allow those instructing and training workers to concentrate on adding value to the process rather than “jumping through hoops” to meet the requirements of documented pre-qualification schemes introduced under CDM 2007.

Question 14) *CDM 2015 changes the notification threshold to cover projects lasting more than 30 working days and having more than 20 workers working simultaneously at any point in the projects; or exceeding 500 person-days. This will reduce the number of projects that need to be notified, but will require notification of domestic clients’ projects that exceed this threshold. What do you think will be the impact of this?*

This measure will not affect our members. However, the same general concern raised under question 10a relating to CD261 paragraph 26:

“The balance of where serious and fatal injuries occur has shifted dramatically in the past 10-15 years. Two thirds or more of fatalities now occur on small sites – sites where fewer than 15 people work – which is the reverse of the historical picture”

It is these same projects that would not be notified to the HSE (as proposed in the new regulations).

Question 15) *Clients' duties in proposed regulations 5, 7 and 9 maintain a strong focus on the way that construction work is carried out on their behalf. Do you think this is the best approach for commercial clients' projects?*

Whilst, Reg 5-6 (a) is workable and similar to current arrangements, we consider that from a house building perspective Reg 5-6 (b) will not work. On sites where a number of house builders have come together to develop the land they may, through agreement, select a Principal Contractor to undertake infrastructure, roads and sewers. Parcels of land will then be handed over to individual house builders, however, on large sites infrastructure work etc. may continue. The current solution for HBF members is to sign up to Consortium Agreements produced at pre-start and continually monitored throughout the duration of the build programme. The agreement would identify a Lead Consortium Member, however, in the example given the work being undertaken by another consortium member acting as a client on their parcel of land may have an impact elsewhere. In this instance we believe that should this occur the duty would lie with consortium member and not the Lead Consortium member.

Question 16) *HSE's preferred approach in relation to domestic clients' projects is set out in regulation 4. By default this deems that their duties will be fulfilled by the contractor (or principal contractor where there is more than one contractor). There is also the possibility that a domestic client can instead have a written agreement with a principal designer will fulfil those duties. HSE believes this would be a proportionate approach. Do you agree with this approach for domestic clients' projects?*

N/A

No need for HBF involvement on this question.

Question 17) *Do you agree with the analysis of the impacts (including costs and benefits) on commercial projects presented in IA? Yes/No*

We are not able to give a robust answer to this.

Question 18) *Do you agree with the analysis of the impacts (including costs and benefits) on domestic projects presented in the IA? Yes/No*

We are not able to give a robust answer to this.

Question 19) *Are there any costs or benefits (positive or negative) that we have missed that you believe should be taken into account? Yes/No*

We are not able to give a robust answer to this.

Question 20) *Do you have any other comments on the proposals covered by this questionnaire? Please provide comments if you wish.*

Transitional arrangements for existing projects are unrealistic, for example, the date of final publication. This requires Principal Designer to be appointed as soon as is practical.

On existing projects where there is a well-established CDM team and structure; and health and safety matters and design input being well controlled and managed – any changes just because required in regulations introduces the risk of confusion and key information being lost and potential increased risk to the health and safety of those working on the project. If it is currently working well on existing projects and not broken – why should the changes be introduced.

The HBF recommends that the transitional arrangements allow for clients (and others) to review if any concerns with current arrangements and standards – if they choose to do so they can change the structure i.e. appointment of Principal Designer. If not, they can leave as is.

Sincerely,

A handwritten signature in black ink that reads "D Mitchell". The signature is written in a cursive, slightly slanted style.

Dave Mitchell
Technical Director