

Note: this information is given in good faith by the DAC but PCCs should check with the Health & Safety Executive website before instigating any construction work - <http://www.hse.gov.uk/construction/cdm/buildingcontrol.htm> 1

Construction (Design and Management) Regulations 2015 (CDM Regulations 2015)

DAC guidance note: CDM Regulations 2015 and PCCs

CDM regulations apply to all construction work and under CDM 2015 the client, i.e. the PCC, has most responsibility for Health & Safety matters.

The definition of construction work as defined by the Health and Safety Executive (HSE) is:

“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 (including cleaning which involves the use of water or an abrasive at high pressure or the use of corrosive or toxic substances), decommissioning, demolition or dismantling of a structure.”

On small construction projects, including repair and maintenance but excluding simple maintenance items e.g. boiler servicing, CDM Regulations 2015 applies. The legislation is written on the assumption that the majority of building contracts will have more than one contractor on site and so for small works with one contractor the legislation is not as clear as it might be.

Many items of repair and maintenance are undertaken by PCCs not using the services of their architect or surveyor. They obtain a quote from one contractor for a specific item of work and apply to the DAC either as a List B application or the beginnings of a Faculty application.

However the legislation states that on projects with only one contractor, the client does not need to appoint a Principal Designer or a Principal Contractor. But the PCC, as client, must ensure the sole contractor carries out the following duty and any instruction must be in writing –

15 - (5) If there is only one contractor working on the project, the contractor must draw up a construction phase plan, or make arrangements for a construction phase plan to be drawn up, as soon as is practicable prior to setting up a construction site. The Construction (Design and Management) Regulations 2015

All the duties of site induction, site safety, welfare facilities etc are the responsibility of sole contractor but with the appropriate information provided by the PCC client. No ‘Health and Safety’ (H & S) file is required on a sole contractor project.

Realistically, there are only a very few jobs of repair and maintenance that are carried out by only one contractor. For example re-roofing, although straightforward, usually involves a scaffolding sub-contractor and a roofing contractor. Therefore, as there is more than one contractor carrying out the works then a Principle Designer (PD) and a Principle Contractor (PC) will need to be appointed by the PCC in writing and the situation becomes much more complex!!

If the PCC, as client, does not appoint a PD and/or PC, the PCC will be solely responsible for the statutory duties they should have carried out. Non conformance with CDM 2015 can lead to prosecution and fines from the HSE.

If the PCC do engage their architect or surveyor for the building works, it will be their responsibility to advise the PCC on the client duties under CDM and ask the PCC to appoint, in writing, the person or persons appropriate to their roles.

CDM 2015 does not expect PCCs to be experts but does oblige them to make suitable arrangements relevant to the particular project. Whilst the HSE Guidance on CDM 2015 suggests a proportionate approach, it does not dissolve or suggest a reduction in those client duties.