



LEAFLET 20

Health and Safety in Construction and the Management of Construction on the Defence Estate

AMENDMENT RECORD

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2	June 2008	Removal of txt relating to domestic premises	Defence Estates – June 2008
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Health and Safety in Construction and the Management of Construction on the Defence Estate

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Foreword

This leaflet is published under the authority of the Chairman of the Defence Occupational Health and Safety Board (OHSB). This leaflet is for application across all areas of MOD and the Armed Forces and reflects recent changes in legislation and or MOD practises.

1. SCOPE

1.1 This leaflet provides guidance for those persons within MOD who are responsible for carrying out duties under the Construction (Design and Management) Regulations 2007 and on how the regulations are to be complied with and implemented within the MOD

1.2 . For more detailed guidance this leaflet should be read in conjunction with the Health and Safety Executive's (HSE) Approved Code of Practice and Defence Estates - Practitioners Guide PG 03/2008 (PG03/2008 replaces DE Policy Instruction PI 13/2007 - The Application of the Construction Design and Management Regulations). These publications are particularly relevant to those who give advice and who are involved in the selection and appointment process for construction work.

2. INTRODUCTION

2.1 The Construction (Design and Management) Regulations 2007 (CDM 2007) which came into force on the 6th April 2007 replaced the Construction (Design and Management) Regulations 1994 (CDM 1994) and the Construction (Health, Safety and Welfare) Regulations 1996 (CHSW 1996).

2.2 The key aim of CDM 2007 is to integrate health and safety into the management of a project and to encourage everyone involved to work together to:

- a. Improve planning and management of projects from the very start;
- b. Identify risks early on so that they can be eliminated or reduced at the design or planning stage and remaining risks can be properly managed;
- c. Target effort where it can do the most good in terms of health and safety; and
- d. Discourage unnecessary bureaucracy.

2.3 CDM 2007 identifies the key duty holders and these are given Section 4 below along with the relevant parties who will be responsible for undertaking the duties within MOD.

2.4. Under CDM 2007 the role of Client Agent has been removed. A client can still employ someone to manage the CDM function on their behalf; however they can no longer transfer their legal responsibilities to them.

2.5 Where a Client's Agent has already been appointed under CDM 1994 the role can continue if requested by the client and the Client's Agent consents to continue. The role can continue until such time as the appointment is revoked by the client or the project comes to an end, or five years elapse from the coming into force of CDM 2007. (April 2012).

2.6 CDM 2007 reinforces the requirements for competency, co-operation and co-ordination. Guidance on assessing competency is given in the Defence Estates - Practitioners Guide PG 03/2008.

3. APPLICATION OF REGULATIONS

3.1 CDM 2007 applies to all construction work, and to both employers and the self employed without distinction.

Construction Work - Definition
<p>Construction Work - Means the carrying out of any building, civil engineering or engineering construction work and includes-</p> <ol style="list-style-type: none"> 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; The preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation, and the clearance or preparation of the site or structure for use or occupation at its conclusion; The assembly on site of prefabricated elements to form a structure or the disassembly on site of prefabricated elements which, immediately before such disassembly, formed a structure; The removal of a structure or of any product or waste resulting from demolition or dismantling of a structure or from disassembly of prefabricated elements which immediately before such disassembly formed such a structure; and The installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure,

Table 2

3.2 CDM 2007 impose General Management Duties, these duties require all duty holders to make appropriate provisions for ensuring the competency of those appointed or engaged, the co-operation of all involved in a project and co-ordination of activities to ensure the health and safety of persons carrying out construction work or who can be affected by the work. No person shall accept an appointment or engagement unless they are competent

- Additional information on co-operation and co-ordination can be found in Leaflet 34 - Management of Visiting Workers and Contractors
- CDM duties which are additional where the project becomes notifiable, are detailed Annexes A-D

3.3 A 'notifiable' project is a project where:

- work is expected to last more than 30 working days, or
- involves more than 500 person days.

3.4 Only days on which construction work takes place, including Public Holidays and weekends as appropriate, will count towards the calculation.

3.5 Table 3 provides guidance on identifying whether or which the regulations apply to a project.

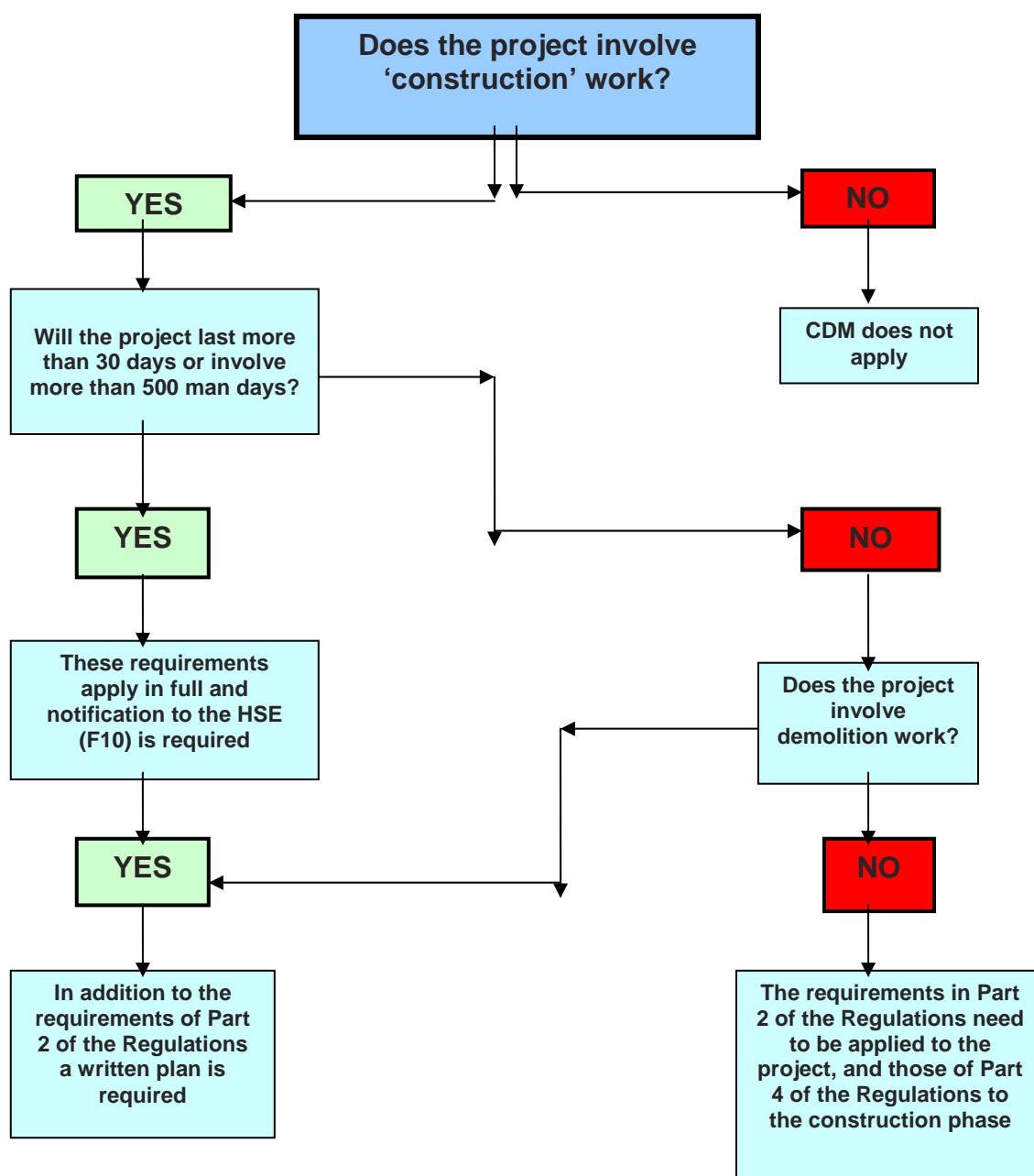


Table 3

4. WHO ARE DUTY HOLDERS?

The Duties of the various duty holders are set out in Annex A. This section is intended to assist with identifying who has which duties.

4.1 Client

- For all construction works (as defined in CDM 2007) within MOD, the SofS will be the client, with accountability for carrying out those duties cascaded down through the relevant chain of command to the MOD manager tasked with delivering those works, e.g. Integrated Project Team Leaders (IPTL), Defence Estates - Estates Managers (DE EM) etc.
- For PFI, PPP contracts the Project Originator (the IPTL) is the client. The Project Originator remains the client until someone else formally takes over the client role (e.g. the Special Purpose Vehicle¹ (SPV)).
- If the Project Originator does not wish to retain the client's duties after the SPV has been appointed, then agreement will need to be reached with the SPV, for the SPV to 'elect' to become the only client in accordance with regulation 8 of the Regulations.
- For notifiable projects - If a client does not make the appropriate appointment they become, by default, legally liable for the work of the CDM Co-ordinator and/or Principal Contractor, as well as the liability for not making the appointment.

4.2 Designers

- Under the regulations a designer is any person, including client, contractor or other person referred to in the regulations, which, in the course of furtherance of a business, prepares or modifies a design or arranges for or instructs any person under his control to do so.
- Where there is more than one designer involved in a project the ACOP suggests the best way to ensure co-operation and co-ordination is to nominate one of the designers as the 'lead designer'
- Designer - includes architects, civil and structural engineers, building surveyors, landscape architects, design practices, contractors, purchasing staff etc. who specify or alter design, or specifies the use of a particular method of work or materials.
- Programme changes may have an impact on the risks involved with the design; therefore, persons requiring any changes to a programme of work must take into consideration the impacts of the proposed changes on the design and

¹ A Special Purpose Vehicle (SPV) is an organisation engaged to undertake a contract
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construction phase, in particular the time needed to be allowed for planning and preparation.

- The ACOP provided the following as an example of who could be a designer:

“A Quantity Surveyor who insists on specific materials or a Client who stipulates a particular layout for a new building”.

- Where construction work forms part of a ‘self help’ project undertaken by MOD employees, the Project Originator will be responsible for ensuring that the designer’s duties under CDM 2007 are suitably carried out.

4.3 CDM Co-ordinator

- The CDM Co-ordinator is a key project adviser in respect of construction health and safety risk management matters. The CDM Co-ordinator is responsible for providing the client with suitable advice and assistance on complying with the regulations and any change which may have a significant effect on the project (e.g. the client’s duty in relation to arrangements for managing projects and the client’s duty in relation to the start of construction phase where the project is notifiable).
- For all notifiable projects/contracts a competent CDM Co-ordinator must be appointed; this could be either an in-house appointment or through an external organisation. Due to the requirement for a CDM Co-ordinator to be appointed as soon as practicable after initial design work commences the Client cannot wait until an SPV takes over the role of client to make the appointment of the CDM Co-ordinator.

4.4 Principal Contractor

- The Principal Contractor is usually a main or a managing contractor who is responsible for the day to day planning, management, and co-ordination of health and safety during the construction phase of a project including supervising and monitoring the work to ensure it is carried out safely.
- There can only be one principal contractor for a project at any one time. Where there is more than one project being undertaken on a single construction site, one of the principal contractors should be appointed as the ‘Principal Contractor’, or all of the principal contractors will need to co-operate and plan their work taking into account the management of the interfaces. See also the requirements for co-operation and co-ordination in Regulation 11 of the Management of Health and Safety at Work Regulations and Leaflet 34 (4Cs) of JSP 375.
- For all notifiable projects/contracts the Client must appoint a competent Principal Contractor.

4.5 Contractors

- A Contractor is anyone who directly employs, engages construction workers or controls or manages construction work. This includes companies/organisations that use their own workforce to do construction work on their own premises, e.g. for 'self help' work the MOD as the employer would be a contractor under CDM 2007.
- The duties on a Contractor apply whether the workers are directly employed, self employed or agency workers.
- Contractors must co-ordinate with the Principal Contractor in planning and managing the work to ensure any risks are adequately controlled.

5. Health and Safety (H&S) Plan

5.1 While CDM Co-ordinator and Principal Contractor appointments and a formal Construction Phase H&S Plan are not required for non-notifiable projects, the regulations require cooperation and co-ordination between all members of the project team and there is still a requirement under existing legislation for appropriate planning, to enable those undertaking the work to understand the risks as detailed in Appendix 3 of the regulations. The CDM 2007 ACOP states that;

“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”

5.2 However, there is a requirement under Regulation 5 of the Management of Health and Safety at Work Regulations 1999 for an employer to make;

“such arrangements as are appropriate, having regard to the nature of his activities and the size of his undertaking, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures”.

6. RELATED DOCUMENTS

6.1 The following documents should be read in conjunction with this leaflet

JSP 375 Volume 2

- a. Leaflet 34 - The Management of Visiting Workers and Contractors within the MOD
- b. Leaflet 45 – Contractor Selection

Other Documentation

- a. Army LANDSO 4600 Safety Management of Visiting Workers, Contractors and Other Visitors on Army Controlled Establishments (Sep 07)

7. Definitions

7.1 For a comprehensive list of definitions on this topic - See Regulation Two (Interpretation) CDM Regulations 2007

Leaflet 20**DUTIES OF CLIENT, CDM CO-ORDINATOR,
DESIGNER AND CONTRACTORS****1. Duties of Client****1.1. Duties for all construction projects:**

- a. Check on the competency and resources of all appointees;
- b. Ensure there are suitable management arrangements for the project including welfare facilities;
- c. Allow sufficient time and resources for all stages; and
- d. Provided pre-construction information to designers and contractors.
- e. Co-ordinate their own work with others,

1.2 Additional duties for Notifiable projects:

- a. Appoint a competent CDM Co-ordinator; (Template letter provided at Annex E)
- b. Appoint a competent Principal Contractor; (Template letter provided at Annex F)
- c. Sign section 13 of the Form 10 Notification
- d. Ensure that construction phase does not start until there is a suitable construction phase plan and welfare facilities in place;
- e. To promptly provide the CDM Co-ordinator with all the pre-construction information in his possession or which it is reasonable for him to obtain; and
- f. Retain and provide access to the health and safety file

1.3 Clients do not need to;

- a. Plan or manage construction work;
- b. Specify how work must be done;
- c. Provide welfare facilities;
- d. Check designs;
- e. Visit site to check or supervise construction work;
- f. Employ third party assurance advisers to monitor H&S standards;* and

Subscribe to third party competence assessment schemes.*

* There may be benefit to the client in doing this.

1.2 Duties of the Designers

Designers must ensure that they are competent to fulfil the duties.

1.2.1 Duties for all construction projects:

- a. Designers must eliminate hazards and reduce risk during designs;
- b. Provide information about remaining significant risks;
- c. Designer must not commence work on a project unless the client has been made aware of his duties.

1.2.2 Additional duties for Notifiable projects:

- a. Designers are not to carry out more than initial design work without confirming that the CDM Co-ordinator has been appointed for the project;
- b. Provide sufficient information needed by the CDM Co-ordinator to fulfil his duties, including information for the health and safety file;
- c. Check that the CDM Co-ordinator has notified the HSE of the project.

1.2.3 Designers do not need to;

- a. Take account of or provide information on unforeseeable hazards;
- b. Design for possible future use of a structure that cannot reasonably be anticipated from their design brief;
- c. Specify construction methods, except where design assumes or requires a particular construction or erection sequence, 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.

1.3 Duties of the CDM Co-ordinator

1.3.1 CDM Co-ordinators are only required for 'Notifiable' projects. CDM Co-ordinators must ensure that they are competent to fulfil the duties.

1.3.2 Duties

- a. Advice and assistance to the client to enable him/her to comply with the client's duties; including:
 - I. Advising the client on the appointment of competent designers and contractors; and
 - II. ensuring the client has adequate arrangements in place for managing the project.
 - III. notify the project to the HSE on form F10(rev).
- b. Co-ordinate health and safety aspects of design work and cooperate with others involved with the project;
 - I. Facilitate good communication between client, designers and contractors;
 - II. Liaise with principal contractor regarding ongoing design;
 - III. Identify, collect and pass on pre-construction information;
 - IV. Prepare/update health and safety file.

1.3.3 The ACOP also requires the CDM Co-ordinator to advise the client on the suitability of the initial construction phase plan and the arrangements to ensure welfare facilities are on site from the start.

1.3.4 CDM Co-ordinators do not need to;

- a. Approve appointments of designers, principal contractors;
- b. Approve or check design, although they do have to be satisfied that the design process addresses the need to eliminate hazards and control risks;
- c. Approve the Construction Phase Plan;
- d. Supervise the principal contractor's implementation of the plan; or
- e. Supervise or monitor construction work.

1.4 Duties of the Principal Contractors

1.4.1 Principal Contractors are only required for 'Notifiable' projects. Principal Contractors must ensure that they are competent to fulfil the duties.

1.4.2 Duties

- a. To plan, manage and monitor the construction phase in liaison with other contractors;

- b. To prepare, develop and implement a written plan and site rules. (The initial plan must be completed before the construction phase begins);
- c. Give contractors relevant parts of the plan;
- d. Make ensure suitable welfare facilities are provided from the start and maintained throughout the construction phase;
- e. Check on the competence of all appointees;
- f. Ensure all workers have site inductions and any further information and training needed for the work;
- g. Consult with the workers;
- h. Liaise with CDM Co-ordinator regarding ongoing design;
- i. Secure the site; and
- j. Clearly display (for those at work) a copy of the Form F10 (rev)

1.4.3 Principal Contractors do not need to undertake detailed supervision of contractors' work;

1.5 Duties of Contractors

1.5.1 Duties for all construction projects:

To plan, manage and monitor their work and that of other workers under their control

- a. Satisfy themselves on the appropriate competence of all their appointees and workers;
- b. Provide suitable training for their employees;
- c. Provide information to their workers;
- d. Comply with the specific requirements in Part 4 of the Regulations; and
- e. Ensure there are adequate welfare facilities for their workers.

1.5.2 Additional duties for Notifiable projects:

- a. Check that the client is aware of his/her duties, that a CDM Co-ordinator has been appointed and the HSE notified before starting work;
- b. Co-operate with principal contractor in planning and managing work, including reasonable directions and site rules;

- c. Provide details to the principal contractor of any contractor whom he engages in connection with carrying out the work;
- d. Provide any information needed for the health and safety file;

Inform principal contractor of problems with the plan; and
- f. Inform the principal contractor of any reportable accidents, diseases and dangerous occurrences.

1.6 Duties of Everyone

1.6.1 Duties

- a. To check own competence;
- b. 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;
- c. Report obvious risks;
- d. Comply with requirements in Schedule 3 and Part 4 of the Regulations for any work under their control; and
- e. Take account of and apply the general principles of prevention when carrying out duties.

PRE-CONSTRUCTION INFORMATION

1. PRE-CONSTRUCTION INFORMATION

1.1 The pre-construction information is the information that the client must provide to the CDM Co-ordinator and any designers and contractors who are bidding for or planning work (or those they intend to engage). The information should contain any project specific health and safety information needed to identify hazards and risks associated with the design and construction work. (e.g. area hazard registers, asbestos register, land quality assessments etc.).

1.2 The information should be sufficient to ensure significant risks during the work can be anticipated and planned for. It should take into consideration the issues that designers and contractors would not reasonably be expected to anticipate or identify e.g. military operational activities, munitions etc.

1.3 The information needs to be clear and concise and easily understood

1.4 Appendix 2 of the ACOP identifies the information that should be included in the pre-construction information.

1.5 The level of detail in the pre-construction information should be proportionate to the levels of risk involved with the project.

1.6 The pre-construction information comes under five headings:

- a. A Description of the project;
- b. Client's considerations and management requirements;
- c. Environmental restrictions and existing on-site risks;
- d. Significant design and construction hazards; and
- e. The health and safety file.

1.7 For MOD CDM projects the pre-construction information shall be presented in the format specified in the ACOP.

CONSTRUCTION PHASE PLAN

1. CONSTRUCTION PHASE PLAN

1.1 The Principal Contractor must have in place arrangements to plan, manage and co-ordinate work during construction phase of the contract/project. The Construction Phase Plan identifies, in writing, how the Principal Contractor will manage key health and safety issues by identifying the organisation and arrangements that are in place to manage the contract/project.

1.2 The Construction Phase Plan must be tailored to suit a particular contract/project. The plan should focus on key information that will enable those undertaking the work to clearly and easily understand process to be used for the safe management of the contract/project. The plan should not contain irrelevant or detailed generic information e.g. generic risk assessments that detract from the main issues. The plan must be a practical aid to the management of health and safety on site.

1.3 Where a project is notifiable, the client must ensure he/she does not allow construction work to commence before suitably developed construction phase plan has been prepared. The level of detail in the plan at this stage will vary depending on the information available. As design and planning for the project may develop as work progresses, the Construction Phase Plan need only contain sufficient information to allow the initial phase of construction work to commence.

1.4 The CDM Co-ordinator should advise the client, in writing, on the suitability of the plan and that it is sufficiently developed to allow construction work to commence.

1.5 Responsibility for the further development of the plan, its implementation, monitoring and review rest with the Principal Contractor under his/her duties in regulation 23

1.6 Appendix 3 of the ACOP identifies the information that should be included in the Construction Phase Plan. There are a number of similarities with the information which would have been required in the Construction Phase Health and Safety Plan under CDM 1994.

1.7 The construction phase plan comes under four headings:

- a. A Description of the project;
- b. Management of the work;
- c. Arrangements for controlling significant site risks;
- d. The health and safety file.

1.8 For MOD CDM projects the Principal Contractor is required to ensure that Construction Phase Plans are presented in the format specified in the ACOP.

HEALTH AND SAFETY FILE

1. HEALTH AND SAFETY FILE

1.1 The health and safety file contains the information needed to allow future construction work, maintenance, refurbishment, alterations, cleaning and demolition to be carried out safely. Information in this file should be specific enough to alert those carrying out such work to the residual risks, and should help them to decide how to work safely.

1.2 This file is used to provide useful information to:

- The client, to enable them to meet their duty to provide information about their premises to those who carry out work there.
- Designers during the development of further designs or alterations;
- CDM Co-ordinator preparing for construction work; and
- Principal Contractors and contractors preparing to carry out or manage such work.

1.3 Where there is an existing health and safety file this must be included as part of the pre-construction information issued to the CDM Co-ordinator, Designers and Contractors. This file forms a key part of the information that the client, or the client's successor, is required to provide for future construction projects.

1.4 Health and safety files must be kept up to date and amended after any relevant work or surveys have been undertaken.

1.5 While non-notifiable works do not require the preparation of a health and safety file, the duty still remains with the client to ensure any existing file is kept up to date. Therefore, while the CDM 2007 does not require a health and safety file for non-notifiable work, the MOD as the client will require suitable, relevant information to be provided, by the contractor, to enable the client to ensure that any existing health and safety file for a structure is updated.

1.6 All notifiable projects will require a health and safety file to be produced and handed to the client at the end of the construction phase. If a completed health and safety file is not available for any reason at handover, a draft file (including identifying any missing information) will be presented with the handover documentation and the completed health and safety file being provided within 28 day of the handover date.

1.7 The client should ensure that the CDM Co-ordinator compiles the health and safety file. It is more practical for the Principal Contractor to obtain the information needed for the file from the contractors, in these cases the Principal Contractor should assemble the information and give it to the CDM Co-ordinator as the work is completed.

1.8 Preparation of the health and safety file should be commenced as soon as work starts on a project, as it can be difficult to obtain information for the file after designers or contractors have completed their work. The Principal Contractor is responsible for obtaining information for the health and safety file from his/her contractors and passing it to the CDM Co-ordinator.

1.9 The format of the health and safety file should be agreed in advance to ensure that the information is prepared and handed over in the required form and at the right time.

1.10 While the health and safety file may form part of the 'handover' documentation for the project, it must be presented in a manner that allows easy access to the health and safety information. For MOD Contracts the Health and Safety File will be presented as a 'stand-alone' file containing only the relevant information required by CDM 2007. The file should provide appropriate cross referencing to other additional information e.g. O&M manuals, drawings, test certificates etc. contained in the rest of the handover documentation.

1.11 The format for Health and Safety Files for MOD contracts are to follow the guidance give in the ACOP

DRAFT LETTER FOR APPOINTMENT OF CDM CO-ORDINATOR

CLIENT DUTIES UNDER THE CDM REGULATIONS 2007

1. In accordance with the requirements of Regulation 14(1) of The Construction, Design and Management Regulations 2007, in my role of Client, on behalf of the Secretary of State for Defence, I hereby appoint Insert Name of Contractor as CDM Co-ordinator for enter name of project/contract.

Insert name and post title

Distribution:

DRAFT LETTER FOR APPOINTMENT OF PRINCIPAL CONTRACTOR

CLIENT DUTIES UNDER THE CDM REGULATIONS 2007

1. In accordance with the requirements of Regulation 14(2) of The Construction, Design and Management Regulations 2007, in my role of Client, on behalf of the Secretary of State for Defence, I hereby appoint Insert Name of Contractor as Principal Contractor for enter name of project/contract.

Insert name and post title

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