GREAT OPPORTUNITIES?

By the time this Digest is published we should know what is planned for CDM 2014 so it seems appropriate to use this issue to identify some of the questions that we might expect to see answered by the published regulatory package – to prepare ourselves for making thorough appraisals and consultation responses.

After all HSE will need and, we are sure, value the responses of experienced CDM Co-ordinators and the UK’s foremost construction health and safety focused organisation.

Presentations from HSE staff at the recent APS Fellows Forum were clear on the main principles and thrust of the changes – which remain much as had been advised previously. So if, as suggested, the new regulations can simplify the CDM without losing effectiveness, if they can further strengthen the role of the Client (without disengaging or annoying them) and if they can remove explicit competence requirements without watering down the competence of all involved (and the competence broth is already very thin on many projects, as we all well know) then, maybe, just maybe, the new regulations could bring improved construction health and safety risk management to a ‘deserving’ segment of the industry.

Equally if the amendment of the threshold for appointment of co-ordinators is also accompanied by an incontrovertible requirement to begin co-ordination of health and safety risk management “when design work begins” we might well see a real shift in risk management by design. This remains one of the biggest problems with the current regulations – as it was with the first set – given that early appointment and action is critical to Design Risk Management (as APS surveys since the introduction of the CDM Regulations and the recent Workplace Law survey – see inside this issue - have all indicated).

However, there are some bull elephants in the room. Who will ensure that co-ordination is carried out? Will they have the competence to do this effectively (not just pay lip service) and have a real commitment to making sure this happens? It is one thing to write regulations and expect them to be carried out – it is another to enthuse an industry and its design teams to whole-heartedly enter into the spirit of those regulations so that they really do make a difference to construction health and safety – not just deal with political niceties.
"Maintaining the highest standards of health and safety in the construction industry is what keeps me and my colleagues at the Association for Project Safety motivated. I am sure the same is true of our partners at the Health and Safety Executive. We agree on that, but the proposed revision of the Construction, Design and Management Regulations may find us disagreeing on how that is best achieved.

Unnecessary paperwork is a bad thing. You won’t find many in the construction industry who would disagree. It does nothing to reduce safety and health risks on building sites, but does impose extra costs on everyone, from the client to the sub-contractors. That’s the last thing the industry needs right now as it struggles to regain its feet and help the economy grow.

There is a government-wide effort to reduce bureaucracy through the BIS (Department for Business, Innovation & Skills) one-in-two-out initiative for new regulations. The proposed revision of the 2007 CDM Regulations, which are due out in draft from the HSE shortly, is likely to be portrayed by the HSE as their contribution towards this anti-bureaucracy initiative. But in practice the effect may well be the opposite.

The HSE is thought to be actively considering weakening the competency requirement for all dutyholders in the revised regulations. They might argue that this will reduce the amount of paperwork in the system, but my experience of nearly 30 years in the construction industry is that additional paperwork is actually generated in inverse proportion to the competence of the person. A competent designer, co-ordinator or contractor ensures that only necessary paperwork is generated. Less experienced practitioners tend to generate more paperwork than necessary in an attempt to cover themselves for any eventuality.

Placing the role of the design or construction phase health and safety co-ordinator with the lead designer is unlikely to reduce costs for the client or industry. Whoever undertakes this role will end up, in some way or another, charging the client for the work they do. It is likely that significant costs will be incurred by the construction industry in retraining practitioners and the preparation of new guidance to take account of the revised regulations.

The APS fully understands and supports the desire of government to reduce bureaucracy, the costs to business that comes with it and the need to ensure GB regulation meets with the requirement of the European Directive. We also share the desire to minimise the impact of regulation on the construction industry whilst maximising the effectiveness of compliance with current legislation.

With that in mind, we are concerned that, unless the requirements for competent, adequately resourced duty holders are retained, changes to the CDM Regulations could lead to reduced consumer and worker protection on construction projects by "freeing up" clients and others to take advantage or cut corners. This is particularly the case at the smaller end of the construction market where health and safety standards are already of great concern to the HSE and the industry.

Some of the key questions that the HSE will need to answer with regard to their proposals are:

- Do they simplify the regulations and improve their clarity so duty holders can easily identify and understand their responsibilities?
- Do they emphasise active management of design and construction risks and minimise bureaucracy?
- Do they strengthen the requirement for duty holder competence to help raise standards and reduce bureaucracy?
- Do they have sufficient flexibility to allow appointment of competent persons to act on behalf of dutyholders?

During the consultation period the APS will be hosting a series of 15 open seminars across the UK to discuss the draft regulations. We hope that many across the industry will join these debates so that we can provide a fully informed and united response to the HSE.”

For further information see www.aps.org.uk
WHAT SHOULD WE BE LOOKING FOR?

There seems to the Digest to be two, really critical, issues in making any set of CDM Regulations work: the capability of those charged with ensuring that CDM co-ordination happens and their involvement in the project from the very outset of design.

So when assessing the possible impact of the proposed new regulatory package we could add these to the list that James Ritchie outlined (see left) in the item for Building On-Line.

We can also examine the regulatory package to see whether or not, or to what extent:

- It includes an incontrovertible requirement to begin co-ordination of health and safety risk management “when design work begins”
- It encourages commitment as well as competence of those who will make sure that co-ordination is carried out especially where lead designers are sole practitioners or small practices
- It recognises that whoever co-ordinates construction risk management, collates and issues the pre-construction information and collects together, prepares and issues the Health and Safety File, has the time to do so

These actions are required when lead designers, especially in sole or small practices are also very busy / preoccupied with extensive design development and general co-ordination issues

- Embedding the co-ordination function within the project team could weaken identifiable responsibility
- The role of the BIM Manager is understood – given that this is to be “mandated” by the new regulations. What role will the BIM Manager have? Would that be developed to include CDM information procurement and management - so ensuring DRM / CDM co-ordination? Would the BIM Manager compile and / or extract the pre-construction information to go to the [Principal?] Contractor(s)? Would the BIM Manager collect together / extract / make sure H&S File information is available and identifiable?
- The BIM Manager role could be developed in this way - if the proposed regulations preclude delegation of responsibility for CDM co-ordination by lead designers – and how this might impact on small lead designer practices as well as larger ones
- ‘Non-delegable’ prevents a lead designer directly or indirectly employing a specialist in CDM co-ordination
- The changes ensure that Clients check that sufficient resources have been made available (and that also includes fees as well as timel) to those who will have to carry out the CDM co-ordination, as well as the design risk management. Is there someone available to help duty holders who are not up to speed with CDM, with co-ordination and with Design Risk Management?
- The regulations recognise the variability of what “more than one contractor” might mean – and how will that impact on projects where, for example, “separate trades” arrangements are made?

AT LAST A FOCUS ON ILL-HEALTH?

The last and perhaps the biggest question, though, is what these regulations will do to reduce construction ill-health and all of its massive financial and social consequences.

If that is not a major focus for these new regulations then a big opportunity will have been missed, given the cinderella status of health under CDM so far. This may be the ‘last chance saloon’ for HSE and CDM and construction related ill-health needs to be at the bar. That is another issue to measure the new package against.

It may not be a measure identified by the HSE – but it is one that we must continue to focus on. After all, the death and injury figures for the UK are excellent – and may be only marginally affected, either way, by the new regulatory package. But as we have made no real progress for years with reductions in construction related ill-health – on HSE’s own admission – then we need to use this big opportunity to now do so.

That might be the most important opportunity for this new regulatory package.
CDM CO-ORDINATOR OR LEAD DESIGNER?

A recent survey by Workplace Law Ltd confirms industry concerns about the probable shift of responsibility for CDM co-ordination from a designated CDM Co-ordinator to the Lead Designer and challenges the basis for the HSE’s decision to make this change.

The Report, which can be found at www.workplacelaw.net/personalStatusArea/download/id/2172 makes interesting reading and we are grateful to Workplace Law for permitting use of extracts from their report in this issue of the Digest.

The background to the research is of course the decision by the HSE to completely re-write the CDM Regulations with an emphasis on making them more palatable to smaller and medium-sized companies and deal with a Directive compliance issue. As we know, the HSE intends their re-write to focus on four key areas:

- The role of CDM Co-ordinators and how effective they are in managing risk
- The competencies of construction professionals, site personnel and organisations
- Improving co-operation and co-ordination between stakeholders
- Domestic Client issues and the threshold of two contractors

Early indications are that the CDM Regulations are likely to fall closer in line with the EU Directive with the CDM-C role being removed and the Lead Designer becoming responsible for the implementation of these functions. Although this situation could mean that the Client does not need to appoint a CDM-C (less red tape?), it could mean that greater due diligence (by whom?) is required when it comes to assessing competence – and the most popular evidence, or specific information that CDM Co-ordinators were asked to provide, included references (71%) and Membership of the Association for Project Safety (56%), after which came qualifications such as the NEBOSH Construction Certificate (47%), or validated CPD in the health and safety field (also 47%).

Interestingly, given its relatively recent introduction, membership of the Occupational Safety and Health Consultants Register was cited by 20% as something they would require a CDM-C to provide.

In total 96 people responded to the Workplace Law questions with the majority well experienced in construction projects. Of these 84% ask CDM Co-ordinators to demonstrate their competence – and the most popular evidence, or specific information that CDM Co-ordinators were asked to provide, included references (71%) and Membership of the Association for Project Safety (56%), after which came qualifications such as the NEBOSH Construction Certificate (47%), or validated CPD in the health and safety field (also 47%).

Interestingly, given its relatively recent introduction, membership of the Occupational Safety and Health Consultants Register was cited by 20% as something they would require a CDM-C to provide.

Ed: Thus proving the serious concerns of the Association at the use of this newly-implemented register for construction related appointments for which it was specifically NOT developed. This register still does not link with other registers and guidance, including HSE guidance, specifically relating to construction health and safety – despite many attempts by APS to persuade HSE to require these links.

The Workplace Law survey then asked respondents the point at which they first employed the services of a CDM-C – partly to answer their own theories about whether the CDM Regulations do Clients a disservice regarding the ambiguous appointment of a CDM-C. Many clients choose to appoint their CDM-C at the latest possible stage in order to minimise costs.

Whilst Workplace Law was ‘pleasantly surprised’ that results showed that 62% of those surveyed appointed a CDM Co-ordinator at the Concept Stage, nonetheless their results indicated that just over 24% made the appointment prior to appointing the Principal Contractor and 12% indicated that appointment took place prior to the commencement of the construction phrase. This seems to the Digest to indicate that on well over a third of projects there would be little chance of the CDM-C contributing effectively to Design Risk Management and thereby “adding value”. This might also explain why the survey results, in response to a question asking what value CDM-Cs brought to their projects, showed that 56% believed that CDM-Cs made a significant contribution to health and safety risk management, whilst 31% believed they made some contribution and 13% believed they made no difference at all. It is hardly surprising that those appointed late might have been perceived to bring little value – given that the real value of the CDM-C is realised by early appointment and involvement throughout
We also recognise another key ingredient, which we require our CDM-Cs to have – personal skills, which assist in building relationships with the project team.

design development. Interestingly examination of APS survey data records from the inception of CDM to now shows that this late appointment issue has been fairly constant despite the changes to the regulations. Early appointment has always been recognised as a critical issue for effectiveness of CDM co-ordination - but it persists as a significant problem.

Clive Johnson, Group Head of Health and Safety, Land Securities is quoted in the report as saying:

“We as a Client have one of the greatest influences over the procurement and delivery of any construction project. We have substantial influence and contractual control and our decisions and approach determines the resources available for the project, the membership of the project team and the working culture and attitude of that team. Our approach will also determine the adequacy and sufficiency of information available for the project team, and whether the arrangements for managing and co-ordinating the project are effective.

The law recognises the importance of the construction client, placing management responsibilities upon them through CDM 2007. However, it is recognised and accepted that the knowledge, ability and will of construction clients to influence and set standards for any project is extremely variable.

Land Securities has a small group of CDM-C companies whom we have vetted and placed on our Approved Suppliers List. Part of the process was not only to interview the potential company but more importantly we interviewed the individuals to ensure they have the knowledge, skills and competence for the scope of works we undertake. We also recognise another key ingredient, which we require our CDM-Cs to have – personal skills, which assist in building relationships with the project team. We also empower them with the courage to speak up and really drive the ‘Health’ and Safety agenda.

Land Securities values the appointment of the CDM-C as we have seen the value they add if you get the right individual. Early appointment is key and their interaction with the project team is crucial to the project’s success. We have set up a best practice Continuous Improvement Group (CIG) for all our CDM-Cs, where we share learning and best practice, which results in a consistent approach right across the business.

We have set up a best practice Continuous Improvement Group (CIG) for all our CDM-Cs...

We acknowledge the review of the current CDM Regulations where early indications suggest that we are likely to fall more in line with the EU Directive, but which could result in the CDM-C role being removed. We believe that this may be a backward step, as we see the real value if you get the right CDM-C and appoint him early.”

The Digest concurs with that view – and we look forward to seeing how the proposed new regulatory package maintains and builds on the gains made so far and achieves even more in terms of construction health, especially health and safety.

COMPETENCE AND REGISTERS

There must be concern that by abandoning the reference to competence in the new regulations the HSE will leave a route open to inappropriate use of the OSHCR Register.

This is a register that the Digest and APS have criticised numerous times (to little effect) for providing referrals to Health and Safety consultants not specifically competent in construction health and safety – and not giving any links or any referral mechanisms or information on sources of competent CDM Co-ordinators – people who are demonstrably competent under the criteria set out in the ACoP appendices.

The Association has tried numerous times to resolve the anomalies surrounding this register – but to no avail so far. If it is not sorted out in relation to a new set of CDM Regulations – which may well leave competence ‘out in the open’ – there could be a major problem for the industry and for clients – as demonstrated by the recent Workplace Law survey (see left).

This is an issue that simply has to be sorted out!
ARE YOU BEING SERVED?

LEAVING SO SOON?

APS Events Co-ordinator - Lynne Kenny – has penned a few words of farewell to all those that she met and talked with during her time at APS:

“By the time you read this, I will have left APS - but I wanted to acknowledge with deep thanks the kindness and support I have received during my time with the Association. It all started back in 2010 when I was employed on a 12 month maternity contract - which then lasted 2½ years! I have spoken to and met so many interesting people during my time with APS that I felt it necessary to thank the organisation and its members for making that time so enjoyable and interesting.

I would especially like to thank my APS colleagues for making the last 2 ½ years really enjoyable and fun. We’ve had some great times together and I will leave with a lot of good memories.

I would like to wish APS and its members all the very best for the future”

Thanks Lynne – we’ll miss you too!

THE COST OF EVERYTHING AND THE VALUE OF NOTHING!

Amazingly, from time to time, APS members complain that the ticket prices for National CPD events are too high – to which James Ritchie comments as follows:

“We have had a few people saying they consider the price of APS seminars is too high. This is usually when compared to regional events presented by local people but the point is noted.

Whilst it does not change the concern regarding cost and attendance, the APS half-day seminar price has never been as low as it currently is:

- Spring 2004 - £97.53
- Spring 2006 - £105.75
- Spring 2008 - £115.15
- Spring 2010 - £117.30
- Spring 2013 - £85.00

All these prices are inclusive of VAT. In addition, APS provides a Loyalty Card scheme, which further reduces the cost of seminars – after four attendances the fifth seminar is free – giving a net cost of £68, including VAT, for each of the five seminars.

APS is constantly working to provide the best possible value in terms of speaker quality, seminar topics and consistency of message across the UK.”

Actually it can be argued that the lower the costs, the lower the perceived value can be and that only events that are seen to cost will be seen to have high value as well. It is, however, worth remembering that the cost of NOT doing CPD can be much higher than the cost of doing it and, as once noted by Oscar Wilde: “Nowadays people know the price of everything and the value of nothing.”

CONSULTATION ON CDM CHANGES:

APS is planning a series of FREE Regional events on the proposed new regulations to explain what they infer and enable the Association to put together a collective response to the HSE. Members will be advised shortly on locations and dates for these.

These events will be available to all APS members and any clients, contractors or designers that they wish to invite along. The Association is exploring joint badging of these events with other organisations so that the widest possible range of responses can be harvested and to encourage the widest range of discussions on the possible effects of the new regulations.
ON SSIP AND HSE...

APS Head of Practice, Greg Brown, comments on the possible future role of SSIP (Safety Schemes in Procurement):

“Even if the current CDM Regulation 4 (appointing competent duty holders) does vanish with the introduction of the new CDM regulatory package then market forces, and our construction industry, will require some level of assurance over who is chosen as a Contractor, Designer or Co-ordination specialist.

Significantly BSI and the Department of Business, Innovation and Skills (BIS) has just re-published the revised “PAS91: 2013 Construction Pre-qualification Questionnaires” for the pre-qualification of supply chains in construction (available as a free download at http://shop.bsigroup.com/forms/PASs/PAS-91/). We know that the HSE is a strong backer of this approach. (It is worth noting that PAS 91, in effect, includes and embodies the core criteria on Stage 1 “Health and Safety Matters” that we are currently familiar with from the CDM ACoP.)

The HSE was a key supporter and motivator in getting the “Safety Schemes in Procurement” (SSIP) Forum created and in recent months has been showing further interest and support, for SSIP and asking the Forum important questions - on clarity, mutual recognition of member schemes, charges and indeed the required cycle of re-assessment for assessed Contractors, Designers and Co-ordinators.

SSIP is in effective dialogue with the HSE and is working on many fronts to improve and streamline its operations. With the likely absence of a CDM ACoP [and the related Core Criteria for competence] from the proposed new regulatory package, SSIP is in an important position to provide cost effective, proportionate assessment assurance of the competence of health and safety components of the supply chain – so SSIP may well have a significant future under the new regulations.”

APS NATIONAL CDM AWARDS 2013

Following on from the success of the 2012 Awards Dinner in Newcastle upon Tyne, the Association is now inviting entries for the APS National CDM Awards for 2013 - a showpiece for excellence in Design and Construction Health and Safety Risk Management.

The Awards will be presented at the APS Annual Awards Dinner to be held in Belfast on the 9th October, 2013.

Once again there will be five categories of Awards and the judging panel, which will include representatives from the from the HSE construction division, RIBA, ICE, Access Industry Forum and APS, will be looking at entries for the:

Project of the Year Awards
The APS Project of the Year award is open to all construction industry clients, professionals, and constructors and is intended to attract submissions from a wide range of projects within both the private and public sectors. These projects should demonstrate excellence in design and construction health and safety risk management from inception through to completion including use, maintenance and eventual deconstruction of the structure. The winning teams will receive a bronze commemorative plaque and certificates for team members.

CDM Co-ordinator of the Year
This award is for the CDM Co-ordinator whose work on projects over the past twelve months the judges consider best demonstrates excellence in the execution of their duties under the CDM Regulations.

Innovation Award
This Award will be given to the project or product that, in the opinion of the judges, has shown the most innovative approach to improving construction health and safety.

Regional Health & Safety Award
This category is for a Project from within the Northern Ireland Region where excellence in construction health & safety risk management has been demonstrated whether that be on or site off site.
WORKING WITH... DESIGNERS
APS is using a series of “Working With...” titles to expand and explore current pressures on and duties of “typical” design team members and the impact and involvement that design risk management brings to this scenario.

A number of free titles are already available to members by logging into the website, using the ‘Publications’ tab to reach the “Practice Note and Working With Guidance” page and then downloading the series of pdfs. Currently available are:

- Working With... Clients
- Working With... One-off Clients
- Working With... Designers
- Working With... Masterplanning
- Working With... Types of Construction

Further “Working With...” titles are currently under production and will be made available for purchase at £10 each, via the APS website during the summer of 2013. These titles include:

- Working With... Architects
- Working With... Architectural Technologists
- Working With... Civil Engineers
- Working With... Structural Engineers
- Working With... M & E Service Engineers
- Working With... Temporary Works Designers

CSP THRESHOLD:
The APS Registered CSP threshold criteria have been strengthened and are now better explained so that APS can now welcome Construction Safety Practitioners who have:

- A Level 5 qualification in Occupational Health and Safety (or the Scottish Level 8 equivalent), or
- CMIOSH, or
- Fellow of IIRSM, and have
- The NEBOSH Construction Certificate, or
- The NEBOSH General Certificate and the CITB’s SMSTS or the CIOB DMX Part A & Part B, or
- APS CDM-C Registered Membership

An ‘experience route’ is also available for CSP applicants who are short in some, or all, of these qualification-related areas. The experience route available for CDM-Cs has proven important for many members and the same process for CSP’s is a further welcome opportunity for Practitioners to share the evidence of their professional practice and have an interview with two registered CSP members.

“APPLY ONLINE PROCESS”
Potential applicants for APS Registered membership are now able to use a new “Apply On-line Process” that greatly improves the application experience.

This is available online through the APS website for individual applicants interested in Registered CDM-C or CSP (Construction Safety Practitioner) membership. At the APS stand at the Safety and Health Expo the Association was able demonstrate this system and use it for new applicants there and then.

APS & NEBOSH: WORKING TOGETHER
At the recent Safety and Health Expo at the NEC APS and NEBOSH used the opportunity to sign a “Memorandum of Understanding” (MoU) between the two organisations.

Greg Brown was delighted to sign on behalf of APS together with Teresa Budworth, NEBOSH’s Chief Executive.

Greg Brown later commented that: “This “Memorandum of Understanding” marks the beginning of an important relationship between APS and NEBOSH - leading bodies in their respective fields – who aim to work together to bring further improvements to construction health and safety with both organisations committed to the promotion of a safer world of work.”
Some 38 APS Fellows attended the Forum (about 35% of total number of APS Fellows). The next Fellows’ Forum will be held prior to the 2013 APS Convention in Belfast, in October.

The HSE presentations looked at the principles of the proposed new CDM regulations - the substantive principle being that any change to the regulatory package cannot provide a lower standard of protection than currently provided. The HSE also stressed, when introducing its proposals, that matters were still fluid, under development and not concluded.

The key areas of change on which HSE proposes to consult were put forward as:

- Structural simplification of the regulations
- The role of the client strengthened
- Removal of exemption for domestic clients
- Amendment of the threshold for appointment of co-ordinators
- Embedding the co-ordination function within the project team rather than within the role of an individual
- Removal of explicit competence requirements
- Duties apply to all construction sites with more than 1 contractor
- Removal of the ACoP

Those present reported that what followed was a professional and engaged debate amongst APS Fellows and the HSE representatives with a distinct lack of defensive self-interest and frayed tempers! A number of points came out of the discussions that should be of interest to APS and its members:

- Contractor related duties will remain largely unchanged
- The discussion centred on the relationship between Designers—Clients—and Co-ordination. Designers will still have duties, and Clients duties are to be strengthened
- CDM-C duty holder to go with the creation of a “non-delegable” responsibility for Designers to deal with design risk management and co-ordination
- The interface or legal niceties with ongoing (construction phase) design were far from clear or whether the “draft” “Project Preparation Manager” would be an integrated “responsibility” or a duty [c.f. the original HSE concept of “pass-the-parcel” - integrated DRM - instead of there being the need for an identifiable “duty holder”?]
- It was also stated that in the absence of an ACoP there is still a role for sensible Pre-qualification schemes with HSE supporting the objectives of SSIP and also PAS91
- Undoubtedly the more than one contractor rule would bring more projects into “co-ordination” scope. The legal mechanism that would enable proper duty allocation on “professional Clients and project teams” was far from settled - with, perhaps, a “pass the baton” scenario for domestic Clients
- The HSE indicated that a 12 week consultation would take place over the summer of 2013 (possibly from July)

The HSE also stressed, when introducing their proposals, that matters were still fluid, under development and not concluded.
MISSING THE POINT?

Graeme Leech, Lead CDM Co-ordinator, Sustainable Building Solutions, Parsons Brinckerhoff provides a graphic, with some notes explaining its use, that might help convince Clients or project teams that design is underway, that the project does need a CDM-C and that Notification is required – when they are “Missing the Point”:

Some project originators (‘POs’) are clearly finding the current market conditions tough and challenging. There are opportunities for providing and commissioning a project, but much of the work may have to be carried out ‘at risk’ whilst the bare-bones of a ‘project team’ do just enough work to gain planning approval, ‘risk-wrap’ the deliverables or process / technology, and provide a proposal in which a ‘funder’ can feel comfortable investing their money.

• Not all POs realise that their project is a construction project as soon as a site is identified and lines drawn on a drawing.
• Nearly all POs choose to keep costs as low as possible in advance of ‘funding’, as they may lose whatever financial outlay they make before that funding is secured.
• Many, but not all, POs have enough knowledge to realise that they are probably the Client under the CDM Regulations.
• Virtually all POs engage an architect, and ask that architect to take such information as is available from previous projects’ or suppliers’ outline or generic designs and produce drawings to submit for planning approval.
• Some POs and their architects may even be working hard to make their intended project ‘fit’ within the planning permission already gained by others some years before.

With these and other factors on their minds, many POs are missing the point of the CDM Regulations. Management and planning work has begun, there is design work being done - they have a construction project and the CDM Regulations apply! For projects likely to take more than 30 days work, they must appoint a CDM Co-ordinator and the HSE must be notified. They must ensure there are adequate management arrangements... etcetera, etcetera.

Many of the POs have engaged a Project Manager. Whilst they may not appear to be a CDM duty holder (a ‘debatable point’!), the Project Managers are not doing their job well if they are not guiding their Client through all the legal requirements facing them, including the CDM Regulations.

In some instances, the PO / Client ‘knows’ that the Regulations apply, but think the requirements to appoint a CDM-C and notify the HSE do not apply ‘yet’.

Some PO / Client and even project team members sometimes argue that the reason for not applying the CDM Regulations is or can be any of the following (a) there is no funding yet, (b) there is no planning permission yet, (c) the site has not been purchased yet, or (d) we are in completion with other teams, and CDM doesn’t apply until it is decided who is the ‘winner’ or ‘preferred bidder’.

Hence the members of project teams are often ‘missing the point’.

One of our APS Fellows has recently seen more and more teams ‘missing the point’ - the challenge, therefore, has been to present information to the PO / Client in a non threatening way – but at the same time challenging and encouraging an appropriate and legal response to the Regulations.

The graphic above has been found to explain things well (a larger version can be found on the APS website at www.aps.org.uk/latest-digest).

• The graphic is not to educate CDM-Cs.
• The graphic is not to give to Clients ‘to ensure they are aware of their duties’, as it only covers a few of those duties. Using the KISS principal the graphic “keeps it simple and succinct”.
• The graphic is to help Clients (and Designers) to realise how early in the project there needs to be a CDM-C appointed and the HSE notified.
• In the graphic, boxes are given labels, A, B, C, D, and N. Each box has a reference to either a CDM Regulation or a paragraph of the ACoP, or both.

If the project is in GB and intended for construction (Box A) - the CDM Regulations apply.

This leads us directly to the Client duties to ensure that adequate management arrangements are in place (Box B), and note:- this is whether or not the project is notifiable.

Box C asks if the project is Notifiable. Assuming that it is, Part 3 of the CDM Regulations also applies and two things are necessary:-

• A CDM-C must be appointed before preparation of the initial concept design; Project Originators are the Client and it is their duty to appoint a CDM-C (they cannot wait for later in the project when ‘a.n.other’ may take on the client role); and if there is no appointment then the Client is deemed to be the CDM-C (Boxes N.1 → N.2 → N.3), and
• Designers need to ensure a CDM-C has been appointed before commencing work (Box D3).

For Designers (and hence also Clients), the graphic leads through Boxes D.1, 2, and 3 for all projects. Box D.1 has a short but clear explanation of design work to include misunderstandings relating to such issues as planning permission, funding, domestic Clients, and high-risk work.

If you are looking for some easy-to-present information to convince your Client or project team that design is underway and the project needs a CDM-C and Notification, this graphic may help.
CDM-C AS THE BIM INFORMATION MANAGER?

As BIM becomes more commonly used on UK construction projects a new role is emerging; that of the BIM Manager, sometimes called the Information Manager or the Integrator. Could the CDM-C be this person?

The Construction Industry Council has produced an outline scope of services for this role [available as free download from their website cic.org.uk]. The functions described there need skills which are often similar to those required of a CDM Co-ordinator. For instance, the Information Manager needs to have strong people skills to work closely with the other members of the professional team as well as the contractor. Co-operative working is the key to the success of BIM, since everyone must make their contribution to the BIM model in order to obtain the benefits of this new way of working.

CDM Co-ordinators have been part of the construction industry for a relatively few years, and are well used to the need to establish good relations with the other members of the professional team, as they have no automatic status in the way that a long established player such as the architect and the engineer already have. The Information Manager will be faced with the same issues.

A wide knowledge of the design and construction process will be needed for the Information Manager, in understanding at quite a detailed level the respective contributions to the model which are needed from everyone. The CDM Co-ordinator’s experience in identifying and gathering information for health and safety purposes has given them the necessary understanding of the design and construction process which will be invaluable for this aspect of the role of information management.

Significant IT skills will of course be required, based heavily on an understanding of the systems currently in use in the construction industry. Again CDM Co-ordinators will be familiar with these in relation to the pre-construction information and health and safety file.

So how does BIM affect terms of appointment? Another useful document, again prepared by the CIC and available as a free download, is the Building Information Model Protocol which provides guidance on how to set up a contract incorporating a BIM way of working, and identifying the contributions required from each of the members of the project team. Part of this involves an understanding of how to co-ordinate the electronic exchange of information.

... the Information Manager needs to have strong people skills to work closely with the other members of the professional team as well as the contractor.
Recent article on BIM and collaborative practice, including the role of the CDM-C in risk management and safety. The concept of BIM as a whole lifecycle approach is discussed, with the potential for improved safety through the use of pre-construction information files and risk logs. Ivan Hurst is an independent consultant engaged with Commercial Management, Risk and Value Management, and BIM and Information Flow Management.
A recent report from independent think tank, Green Alliance, has suggested that extending landfill bans to food, wood, textiles and plastics could save the UK over £3bn in recovered resources and landfill costs.

According to the report, the UK could save £1bn in landfill costs if the government extends the existing landfill bans on cars and mobiles to food, wood, textiles and plastics. It goes on to claim that the recovered resources would also bring £2.5bn in value to the economy.

The research has emerged in the same week as a new Bill has been introduced to the Scottish Parliament, which could see Scotland adopt a new tax to replace the UK Landfill Tax and tackle illegal waste disposal whilst bringing benefits to community and environmental groups.

Green Alliance Senior Policy Advisor, Dustin Benton, said:

“It seems obvious that the rising cost of raw materials should automatically keep many materials out of landfill, but we’re burying most of this value in the ground. Landfill is still the default option.

The Landfill Tax (Scotland) Bill proposes a replacement for the UK Landfill Tax in Scotland from 1 April 2015 and if passed the Bill will help tackle the problem of unauthorised dumping activity and encourage the proper disposal and recycling of materials according to Scottish Finance Secretary, John Swinney.

FOOTNOTE:
Information flow, management, and modelling – Part 1 - http://mag.digitalpc.co.uk/fvx/ces/1211/?pn=18
Information flow, management, and modelling – Part 2 - http://mag.digitalpc.co.uk/fvx/ces/1301/?pn=38
Information flow, management, and modelling – Part 3 - http://mag.digitalpc.co.uk/fvx/ces/1302/?pn=20

Heathrow has been working on BIM information for over twelve years. It now considers it knows the location of 70% of its services to within +/- 500mm. This will obviously reduce the probability of service strikes and the consequent risk to life and limb.

Some Examples:

Heathrow has been working on BIM information for over twelve years. It now considers it knows the location of 70% of its services to within +/- 500mm. This will obviously reduce the probability of service strikes and the consequent risk to life and limb. The same information can be used to isolate a building and the local area in the event of a serious fire. Information, and the availability of that information is significant in the safe operation of Heathrow.

Consider this hypothetical example. It is time for a full refurbishment of a railway station. Currently, several surveys would be required prior to any design work. Initially this would be non-intrusive. As the project proceeds, more surveys would have to be undertaken, becoming more expensive and more intrusive. One of these may be an asbestos survey. Staff memory suggests that there was an asbestos removal project some 15 years earlier. No Asbestos was found and so design proceeds. Construction starts, and asbestos is found in an isolated area. Work stops and the project is delayed.

Now consider the same scenario, but in an information rich environment. All the surveys have already been done and available. There is a record of the asbestos project, not just a memory. There is also a record of the decision not to remove an isolated area of the asbestos as it would be disproportionately expensive for the risk involved, and was therefore only isolated. The information is therefore available to the current project team and is hence programmed into the works.

The role of CDM-C will become very much more integrated into the collaborative effort of the delivery of a project. Safety should be an easier drum to beat.

Does BIM affect CDM-C and Health and Safety?

The role of the CDM-C should become very much more integrated into the collaborative effort of the delivery of a project. Safety should be an easier drum to beat. However, the biggest win will be with the availability and use of quality data and information. As Nick Nisbet stated in his recent article data is important. Standard handling of that data is essential to obtain best leverage of the contained information.

Not only will the early BIM projects enable easy creation of excellent Health and Safety Files, but in the future, fully detailed, accurate and reliable Pre-Construction Information Files.

FOOTNOTE:
Information flow, management, and modelling – Part 1 - http://mag.digitalpc.co.uk/fvx/ces/1211/?pn=18
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One issue with CAD based information is the need to ensure that all relevant layers are switched on when checks are made of, for example, utility companies about buried water, electrical, cable or gas services.

If a layer is ‘switched off’ a formal enquiry response could result in ‘no buried services’ or omission of one or other service – with consequent excavation etc., risks on site. The simple inclusion in letters of enquiry of a request to check all relevant layers of digital records might help to alert the responders of the need for them to check very carefully!

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**MESOTHELIOMA BILL:**

On 9th May 2013, the Mesothelioma Bill 2013-14 received its first reading in the House of Lords - a formality that signals the start of the Bill’s journey through the Lords.

The purpose of this Bill is to establish a payment scheme for eligible people with diffuse mesothelioma (and their eligible dependants) where their employer or employers’ liability insurance company cannot be traced, and to make provision for the resolution of certain insurance disputes.

The scheme is to be funded by a levy on insurance companies that are currently active in the employers’ liability insurance market and amount of the levy to be paid by each insurer will be determined by reference to each insurer’s market share in a recent 12 month period (to be determined in accordance with regulations made by the Secretary of State).

The Bill was announced in the Queen’s speech on 8th May 2013 and was scheduled to receive its second reading - the general debate on all aspects of the Bill – in the House of Lords on 20th May 2013.

"The scheme is to be funded by a levy on insurance companies that are currently active in the employers’ liability insurance market..."

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**NEW HSE RESOURCES**

The HSE has released helpful new resources, including a new web page dedicated to health surveillance guidance at:

www.ppconstructionsafety.com/newsdesk/2013/03/19/hse-help-for-handling-health-surveillance

The HSE has also released a new leaflet for guidance on silica dust dangers -

www.ppconstructionsafety.com/newsdesk/2013/03/21/new-guidance-on-site-silica-dust-danger

The HA and HSE have joined forces to create a new leaflet on silica dust health risks and control. This is aimed at workers who use cut-off saws which produce large amounts of dust -

www.hse.gov.uk/pubns/indg461.pdf
BIM FOR SMES

BIM4SMEs is a working group made up of individual organisations from different sector backgrounds within the industry and includes: SME contractors, specialist sub-contracts, architects, FM providers and construction bodies etc.

All these organisations are SMEs or have a key interest in ensuring SMEs are well informed and recognised for their advancing of Building Information Modelling within the SME Community.

Responding to the need to raise awareness of BIM to the SME community, the BIM4SME working group has developed a poster campaign as a method of reinforcing the benefits of BIM implementation within organisations. The campaign creates a highly visual and high impact promotion through genuine and independent advice and guidance from trusted and real life SME organisations / people / sole proprietors etc.

This ongoing campaign would welcome any SMEs who wish to share their thoughts of those using BIM but also those that have yet to start the journey. Purpose of the campaign is to hear from real people with real messages.

You will see these posters over and over again so keep your eye out for them.

Any SMEs who may have a message they would like to share, then please contact BIM4SME by going to: www.bim4sme.org/?page_id=66

NEW BASEMENTS TO EXISTING PROPERTIES

A CROSS (Confidential Reporting on Structural Safety) reporter has expressed concern about the construction of some basements in London.

He has reviewed two projects covering basement works in relation to Building Regulation checks on the structural aspects and the following characteristics were seen by the reporter:

- They were probably two projects with the least percentage of costs spent on architectural and structural design that he has come across in three decades of practice
- There was a definite danger to the builder, based on the submitted designs
- They were very likely to cause major problems for the neighbours
- It was suspected that the works would be outside the competency of all parties, and this included the client and the Building Inspector

After the reporter expressed concern he said that the projects were passed to another engineer.

Danger during construction is beyond the scope of Building Control but it is essential that this is considered during the process.

Comments by CROSS: The increase in major or complex basement constructions in London in particular is a concern as the implications do not always appear to be appreciated by those involved. Such projects may not be ‘building works’ but ‘construction projects’, with an attendant necessary increase in competency. Indeed it has also been reported that, in London, basements under terraced houses are being constructed without any engineering input and no regard to the Party Wall Act, ground water movement, or the effect on neighbouring dwellings. Danger during construction is beyond the scope of Building Control but it is essential that this is considered during the process. There are usually understandings between Building Control and HSE such that once a project gets underway on site, unsafe actions are referred to the HSE. The aim however should be to intercept these projects prior to construction and perhaps this report reinforces the need for the licensing of certain types of work. It is to be hoped that available guidance would be consulted or competent specialists brought in as required. Competency of those in the chain of responsibility is very important and features in many reports to CROSS about failures. “Simplifying design and construction” from the Basement Information Centre gives general advice and is soon to be up updated.
In response to industry feedback, CSCS has developed three free apps that contractors can use with the competence card scheme’s smartcards - including reading CSCS card details, registering details of attendees at training course and toolbox talk and time and attendance for recording who is working on-site and when. The idea is to reduce the overheads associated with record keeping and the apps mean there is no need for paperwork or manually inputting information so mistakes are eliminated and the processes becomes more efficient and reliable.

The apps can be used on Android smartphones or tablets and can be downloaded from GooglePlay where there are also short descriptions about them and simple user instructions. There is also a short video here that gives an overview of the apps and how they can be used.

Graham Wren, CSCS chief executive said: “Now that the majority of CSCS cards are smart, site managers can take advantage of the technology by checking workers details using apps on their smartphones or card readers and link with their own training and HR databases. It makes the whole process of checking workers carry the right card for the job much easier.”

One-to-one telephone training for site-based users of CBH database

Support is only a phone call away! Constructing Better Health (CBH) has made available easy and convenient telephone-based training to site-based users of their popular health risk management “Construction Health Action Toolkit” (CHAT).

The whole training process can take less than one hour and is available to all CBH Members by:

- Contacting CBH to arrange a training date and time
- Being guided through the CHAT user process, step by step during the training session
- Being shown how to input relevant company data and how CHAT can work for the member

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1 million cards: CSCS milestone

CSCS has issued its millionth Smartcard. CSCS Smartcards were launched in 2010 with the aim of making cards harder to forge and enabling contractors to use them for other applications such as recording time and attendance, training, toolbox talks and inductions and integrating with other applications including access control, occupational health systems and competence management.

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SPRINKLER STOPS FIRE IN CONVERTED MILL DWELLING

A member of the British Automatic Fire Sprinkler Association (BAFSA), recently reported that a sprinkler system, installed in a room in a four-storey converted period mill in Islington, was actuated as a result of building operations during which a tray of rags and acetone caught fire.

Due to the heat of the fire a single sprinkler head immediately operated and extinguished the fire. The owner reported that the builders removed the tray and the rags (and most of the hair on their arms!) and that water from the operating head was caught in a bucket until the system stop valve was closed. There was no fire or water damage to the property and the fire brigade was not called. The value of early installation of sprinklers in construction projects is thus well demonstrated.

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SAFETY CULTURE MEASURED ON-LINE

A tool to help companies measure their safety culture and develop simple, evidence-based improvements has been re-launched by the Health and Safety Laboratory (HSL) following a major upgrade.

The HSL, an agency of the HSE, has launched the ‘Safety Climate Tool’ (SCT), which, it says, is a reliable and robust psychometric instrument for measuring safety climate. Improvements include making the tool available on-line for the first time, which reduces IT security and compatibility issues and the tool now also offers improved reporting and benchmarking against other organisations.

SCT is an online questionnaire that consists of 40 statements that map onto eight key factors and measure employee’s attitudes on health and safety issues...

HSL’s Caroline Sugden said:
“SCT is an online questionnaire that consists of 40 statements that map onto eight key factors and measure employee’s attitudes on health and safety issues... the tool produces a series of automated charts that allow detailed analysis of the results... [and] ... generates a summary report highlighting the key findings from the survey and providing hints and tips to improve the organisation’s safety culture.”

The HSL points out that even though health and safety climate is not, in itself, a legal requirement, putting a programme in place for measuring and improving safety culture will reduce incidents and help to show that an organisation takes health and safety seriously.

The tool can be accessed at: www.hsl.gov.uk/products/safety-climate-tool.aspx

ENFORCEMENT ACTION AT 1 IN 5 CONSTRUCTION SITES

Nearly one in five construction sites visited across Britain have been subject to enforcement action after failing safety checks.

Between 18th February and 15th March this year, HSE inspectors made unannounced visits to construction sites to ensure they were managing high-risk activity, such as working at height. Checks were also carried out to see whether or not there was general good order on site, whether PPE was being used effectively and that welfare facilities were adequate.

2363 sites, where refurbishment or repair work was taking place, were visited and inspectors met with 2,976 contractors. In all 631 enforcement notices were served across 433 sites for poor practices that could put workers at risk, with 451 notices ordering that work stop immediately until the situation was put right.

But in London.....1 in 4 sites failed the safety inspections

One in four of the construction sites visited in London during a month-long inspection initiative failed health and safety checks, according to the HSE inspectors who visited more than 400 sites as part of the national HSE clampdown aimed at reducing death, injury and ill health. The purpose of the initiative was to remind those working in the industry that poor standards are unacceptable and could result in enforcement action.

A total of 93 of the 401 sites failed to meet the minimum legal standards for health and safety. Specific work activities on some of the sites were deemed to be so dangerous that immediate Prohibition Notices were served by Inspectors, halting further work until standards had been raised.

As well as 114 Prohibition Notices, Inspectors also served 22 Improvement Notices, which required particular improvements to be made to working practices.

Of the total visits, 110 were to look specifically at the construction of domestic basements in three target boroughs – Westminster, Kensington and Chelsea, and Hammersmith & Fulham. Fifty Prohibition Notices were served stopping work activities across 34 sites, the majority concerning work at height but a significant number citing poor excavation or structural support.
TRIENNAL REVIEW OF THE HSE

The Department for Work and Pensions (DWP) commenced its triennial review of the HSE in late April.

Responding to the announcement, HSE Chair Judith Hackitt said:

“It is approaching 40 years since HSE was created and in that time the organisation has continually adapted to keep pace with changes in industry and to ensure HSE continues to make a positive contribution to reducing death, injury and illness in the workplace.

“We welcome the opportunity to work with Martin Temple and to contribute to the review, which we expect to provide robust and helpful scrutiny of HSE and its responsibilities.”

The Cabinet Office requires every non-departmental public body (NDPB) to be reviewed by its parent department every three years. The review will look at HSE’s functions, form and governance.

1. The first stage of the review will identify and examine the key functions of HSE. The review will assess how the functions contribute to the core business of HSE and DWP, and whether these functions are still needed.

2. If the conclusion is that the functions are still required, the review will then examine whether HSE as currently constituted remains the best way to perform those functions, or if another delivery method might be more appropriate. For a body to remain an NDPB it must satisfy at least one of the Government’s three tests:
   - Does it perform a technical function which needs external expertise?
   - Do its activities require political impartiality?
   - Does it need to act independently to establish facts?

3. The size and profile of HSE means that there will also be an independent ‘Challenge Group’ overseeing the review – their purpose being to rigorously and robustly challenge its findings.

HSE is an executive non-departmental public body (NDPB) responsible for regulating work-related health and safety in Great Britain in partnership with local authorities. Its mission is ‘the prevention of death, injury and ill health to those at work and those affected by work activities’. Ministerial responsibility for HSE rests with the Department for Work and Pensions (DWP).

Ed: Curious to see the reference to ‘political impartiality’ when we can see that aspects of the proposed latest set of changes to the CDM regulations are politically driven.

TOP 10 TIPS FROM LONDON 2012

HSE some time ago published its ten top tips that emerged from Olympics experience – recurring key themes that emerge as contributing to the good health and safety record during London 2012 – obviously things that the HSE will, in future, expect Lead Designers to lead on under the proposed changes to the regulations:

1. Leadership – Set the tone on safety; make expectations clear and lead by example on site - ‘walk the walk, talk the talk’

2. Make sure the workforce is ‘happy, healthy and here’ by giving health risk management equal priority to accident prevention

3. Planning - Plan ahead. Take time out before starting on a complicated piece of work to consider risks and work out how to manage them

4. Adapt working practices to manage identified risks – Focus on practical measures, there is no need to produce lengthy document

5. Review and Learn - where health and safety failings are identified, look at what went wrong and adapt risk management arrangements to avoid a recurrence

6. Communication - Make sure supervisors have the right skills to lead the workforce effectively: as well as technical knowledge, they need good communication skills

7. Use Short Daily Activity Briefings - Before work starts will pay dividends for both safety and efficiency

8. Visual Standards - Posters or photographs illustrating health and safety dos and don’ts can be a good way of getting messages across

9. Worker engagement - Listen to workers and involve them in problem solving: a two-way dialogue is essential if workers are to feel they have a real stake in health and safety

10. Establish a ‘fair blame’ culture on health and safety - If mistakes are made, use them as shared learning points. If rules are flouted, apply sanctions

Ed: Do we think that the Olympics’ Health and Safety outcomes would have been as good if there had not been CDM-Cs and if there had only been ‘non-delegable’ duties on lead designers?
**VIEWS FROM FAR AND WIDE**

Comments from a diverse group of members in response to APS coverage of the proposed CDM changes might provide some meat for the consultation stage:

“My team has large construction sites in London. On some of these, literally every operative and Contractor is either Romanian or Polish. I spend days (like today) working and going around sites with interpreters. How are we supposed to manage in these circumstances if the very structure by which we work is removed?”

“Watch the fatalities rise - reactive health and safety management will become the norm if they get their way. ...Look at European stats to see how successful they are with health and safety management or better still take a holiday and take a few photos!”

“Frustration and disappointment – perhaps if the current Regs had prevented the “lip service” merchants (stay in bed designers who take on the role to ensure they win the bid but who don’t know what Reg 11 even is!) practicing we wouldn’t be in this position. The CDM Regs are effective if delivered by competent key stakeholders – simple as that.”

“The HSE may indeed get rid of Regulation 4 because they consider this to have spawned a PQQ bureaucracy. However, they remain very quiet about how Clients will be expected to appoint ‘competent’ practitioners when the very word ‘competent’ is removed – and there is no ACoP to help!”

“We as a Company are focused mainly on providing the role of CDM-C to a substantial range of Clients and have invested heavily in establishing our credentials and providing a whole range of compliant services to support those Clients... It would appear... that the investment made by us could be totally wasted.

“This week my colleagues discussed the APS article with all our (many) Clients. We’ve done the same with the Principal Contractors with which we work. Both groups were unanimously in favour of retaining the present system.

The main reasons given for this are:

• the present system operates very well
• they can demonstrate year on year improvements with the present system
• they have invested heavily in the present system
• the proposals appear ill thought-through, and fraught with fundamental issues
• the Government is putting dogma before the Industry’s interests, and no one would know who is responsible for what

“We know of individual domestic projects in our area valued in millions of pounds. Logically, they need pulling into the existing CDM Regs, along with so-called ‘self-builds’, and ‘grand designs’ type projects, since many sites we see in passing appear to be death traps.”

“These developments appear to be more about the reduction of a layer of fees in order to reduce Client costs whilst attempting to focus the attention of Architects and Contractors more on H & S than about promoting H & S in construction projects.”

“We’ll be back to where we were before the 2007 Regs – with Architects shedding the (Planning Supervisor) role to a role specific employee or external consultant – and with most other designers not knowing anything about the CDM Regulations (or construction health and safety, for that matter). Most lead designers will be too busy dealing with all the other project issues (remember BIM?) to be able to spend enough time on Construction Health and Safety and no-one will have much in the way of clout to influence the client or even the rest of the team – just like pre 2007. Is there anyone in HSE who remembers the old system and what was wrong with it and why they changed it last time around?”

**Ed:** These comments appear anonymously to protect the business positions of some of the stringent critics writing above! The next issue will, hopefully, publish your responses to the full set of proposed new regulations (and guidance, if it is available at the same time, as it really needs to be) once we have an inkling of how HSE are to deliver role competence; how responsibility is to be delivered for ensuring that H&S risk management actually happens; how clients are to be kept in the responsibility frame; what new labels we will again have to be clarifying and what devils there are in the details.

**APPEAL FOR VIEWS:**

Please send in those thoughts – APS needs to have your views on the new regulations. After all - to date - no other organisation has taken construction health and safety risk management more seriously than APS - except, perhaps, HSE. So your views need to be heard, especially if you think there are practical and risky consequences!

Email your letters and queries to info@aps.org.uk
Peter Caplehorn, the RIBA’s health and safety champion, was compelled to respond to Peter Dowdell’s comments in the recent edition of APS Digest:

There is a well-known phrase ‘rules are for the guidance of wise men and the obedience of fools’ which is very appropriate in much of the health and safety arena.

The irony in his response to the RIBA President’s perspective, is that Mr Dowdell’s thinking is exactly what the President was getting at, and exactly the kind of misplaced rant we can do without, as an industry. Obviously the President did not get through the first time. But we designers are well used to that, I’m sorry to say. The real problem is a lack of understanding, clarity of thought, dare I say it, and comprehensive understanding of the regulatory world.

The point regarding knowledge of the Workplace Regulations is made because they are no longer fit for purpose and from a designer’s perspective nearly completely consumed by the Building Regulations. It is only the pointless move that included them in the upgrade of CDM 2007, which has given them a modicum of relevance. Those parts that are not in this camp are nearly all applicable to building owners and operators, not designers. So the logic here is that Architects focus on what they need to rather than what is not relevant. So often issues are raised for the sake of it - not because they are relevant, not because they will make a difference, but because a tick box says so. We all need to keep a focus on that - not mindlessly quoting regulation references.

Additionally it is all very well shouting about what is the law; the point is surely, what is actually in place and used to determine compliance. Quite often there are several layers of legality. Yes, I appreciate that some Architects will not be conversant with each Act and yes, they should be but they are nearly always aware of their obligations, and they are far wider, and more onerous than those of the CDM-C, not just about health and safety.

The way some of these issues have been expressed makes them overly complex and patronising. It is an irony to me that while there is a lot of conversation about co-operation and co-ordination there seems to be little of that available expressed here, by the ‘I know better’, overbearing attitude, as sadly expressed in this letter.

I would next turn to the confused and rather insulting characterisation of Architects. Aligning Architects with the financial industry and its problems is as inaccurate as it is absurd. Many Architects are very much in the area of considering the wide view, looking at all options. I expect that’s why some, such as Mr Dowdell, get upset because in considering the whole situation we do not necessarily take his view as the only and correct one, and for good reason. This leads us into the fragmented, siloed, world that gives construction a bad name. Yes there are issues with the education system and many of us are working hard to correct this; at least we have a system and one renowned across the world for producing high quality.

I, personally, am disappointed by this response. I would hope for better. In a rapidly changing world we need to understand what the real issues are, how we can work together and make tangible differences, rather than being caught up in boundary disputes!
PLUMBER FINED FOR ASBESTOS EXPOSURE

A Nottinghamshire plumber has been fined a total of £5,000 and ordered to pay costs of £4,000 after putting his son and a young family at risk of exposure to asbestos.

Dean Fisk, who had been employed to replace a galvanized water tank in the loft of a house, failed to carry out an assessment to see if asbestos was present, and as a result of this failing, while replacing the tank in January 2012, his son, also a plumber, removed an asbestos box from around it, breaking some of the panels. An HSE investigation later discovered that he had not had any asbestos awareness training.

The Court heard that the loft became contaminated with potentially deadly fibres and licensed contractors were called in to remove all traces of the asbestos, at a cost of £2,870 to the home owner.

Dean Fisk pleaded guilty to breaching Regulations 10(1)[a] and 16 of the Control of Asbestos Regulations 2006 and was subsequently handed the fines. In addition, he was ordered to pay compensation of £2,870 to the home owner.

ASBESTOS RISK: HOTEL CHAIN FINED

A leading hotel chain has been ordered to pay more than £200,000 in fines and costs after construction workers and guests were put at risk of asbestos exposure at a Kent hotel.

Cheshire-based Britannia Hotels Ltd failed to ensure a full asbestos assessment was undertaken before construction workers refurbished a wing of The Grand Burstin Hotel in Folkestone, between February and July 2010.

Canterbury Crown Court heard in April that an asbestos surveyor called to the site after work began discovered the widespread presence of asbestos in the eaves of the building. He also found asbestos on the second floor, which was likely to be linked to the removal of walls and ceilings as part of the refurbishment.

A licensed asbestos contractor had to be called in to remove the material and seal off the contaminated area to prevent fibres spreading to other parts of the hotel and the HSE was notified.

Due to the long latency period of asbestos-related illnesses, it is not yet known whether any construction workers or hotel guests were directly affected.

Britannia Hotels Ltd pleaded guilty to two separate breaches of the Health and Safety at Work etc Act 1974 and was fined a total of £160,000 and ordered to pay £40,051 in costs.
OCTOGENARIANS FACE £1M COMPENSATION CLAIM

The family of a former building worker alleged to have died of asbestos poisoning has launched a £1m court claim against three elderly and retired RMJM Architects, formerly partners of dissolved RMJM Partnership and Scottish housebuilder Bett Homes.

Documents filed at Scotland’s supreme civil court, the Court of Session, reveal that the family of the late John Angus Miller, who died of mesothelioma at the age of 70 in 2009, are claiming £1,150,000 plus interest over the “alleged negligent exposure” of Miller by his former employers to asbestos dust during his working life.

The claim was originally filed against Bett Homes - which employed Miller as a carpenter and joiner between 1962 and 1967 - and RMJM Scotland Ltd, whose predecessor firm RMJM Partnership employed Miller as a clerk of works from 1967 to 1973.

However, after RMJM Scotland Ltd went into receivership last October, the claim was amended to target six former partners of RMJM Partnership of which it is thought that only three are still alive - former chairman and president Sir Andrew Derbyshire, 89, former president Vernon Lee, 88, and another former partner Alan Wightman, also believed to be in his 80s.

Referring to Miller’s employment by Bett Homes, the document said: “He worked on first and second fix in new build housing at various sites in Scotland. He was regularly exposed to asbestos sheeting in soffits and barge boards and also to asbestos in Artex which was used to cover ceilings.”

The document also claimed that Miller regularly handled and sawed asbestos boards and sheeting earlier in his career, from 1954 to 1959 while working near Dundee as an apprentice joiner and carpenter for Steve Blaines, an employer who is not among the defendants.

It also admitted that Miller was a smoker who suffered from “various medical disorders” which damaged his life expectancy.

One Important Lesson: Keep the PII run off cover running...?
FINES AND PRISON FOR SAFETY FAILINGS

The owner of a former Burton upon Trent brewery and the sub-contractor on a project to refurbish it have been prosecuted after a catalogue of safety failings was uncovered surrounding the unsafe removal of asbestos.

Investigations by the HSE of Optima (Cambridge) Ltd, the building’s owner and Principal Contractor on the refurbishment, and self-employed Dominik Jaslowksi, who was acting as site manager, revealed that workers were living in the building and one had contracted Legionnaire’s disease.

Burton upon Trent magistrates heard that the HSE received a complaint in January 2010 from a member of the public that asbestos-containing material had been removed from within the building and walled up in the basement. HSE identified a significant area of the building as being contaminated and a licensed asbestos removal contractor later dealt with some 27 tonnes of the dangerous materials.

The HSE issued a Prohibition Notice halting all work and a Direction to Leave Undisturbed against Optima (Cambridge) Ltd in January 2010. The court was told that in November 2010, HSE was informed that a workman had been diagnosed with Legionnaire’s disease and that workers had been using the building as overnight accommodation.

A site visit with Staffordshire Fire and Rescue Service also discovered: that no fire safety risk assessment had been carried out; inadequate fire alarm and detection systems; obstructed escape routes; inadequate signage of emergency routes; no emergency lighting and insufficient evacuation procedures.

Three prohibition notices were served against Optima (Cambridge) Limited and two against Dominik Jaslowski preventing further use of the building as overnight accommodation and any further construction work. A further notice was also served against the company preventing further use of the hot water system and showers.

HSE’s inspection also discovered that four large holes had been cut into the first and second floors. The voids on the first floor were not adequately protected to prevent a fall of several metres to the ground below.

Optima (Cambridge) Ltd, of St Saviours Wharf, Mill Street, Southwark, London, pleaded guilty to breaching:

Section 3(1) of the Health and Safety at Work etc Act 1974, for failing to protect those not in their employment; Regulations 9(1) and 41 of the Construction (Design and Management) Regulations 2007, for failing to ensure arrangements made for managing the project were suitable and for failing to ensure the provision of fire fighting equipment, fire detection systems and alarms. Regulations 6(1), and 8(1) of the Control of Asbestos Regulations 2006, for failing to carry out a risk assessment and failing to hold a licence to remove asbestos; Regulation 6(3) of the Work at Height Regulations for failing to take measures to prevent a fall and Regulation 7(1) of the Control of Substances Hazardous to Health Regulations 2002 for failing to prevent or adequately control exposure to legionella.

.................................
...no fire safety risk assessment had been carried out
.................................

The company was fined a total of £63,000 and ordered to pay costs of £16,000.

Dominik Jaslowksi, pleaded guilty to breaching two counts of Regulation 13(2) of the CDM Regulations 2007 for failing to plan, manage and monitor construction work and was given a three month prison sentence for each offence, to run concurrently, suspended for 12 months. He was also ordered to carry out 200 hours unpaid community work and pay costs of £3,500.

PENSION BLOW!

A building contractor has been fined after two pensioners were hit by a hoarding that collapsed in high winds when Gary Bluff Projects Ltd, of Sheffield, was refurbishing a restaurant at Highcross shopping centre in Leicester in February 2012.

The HSE told Leicester magistrates that the firm had put up hoarding consisting of plywood attached to metal fencing around two metres high around the outside of the restaurant, but it had not been properly designed and was unable to withstand high winds.

Part of the hoarding blew over and hit an elderly couple as they walked past, knocking them over and leaving the couple in shock. The woman received hospital treatment for her injuries.

Gary Bluff Projects Ltd, of Paradise Square, Sheffield, pleaded guilty to breaching Regulation 25(1) of the Construction (Design and Management) Regulations 2007 for failing to ensure the hoarding was properly designed and installed. The company was fined £6,000 and ordered to pay costs of £6,735 and a total of £500 compensation to the two victims.

Speaking after the hearing, HSE inspector Mhairi Lockwood said:

“This couple were lucky not to have been more seriously injured. As it was they suffered injuries and shock that could and should have been avoided.”
The 2013 APS Convention will be held in Belfast at the Belfast Metropolitan College - located in the Titanic Quarter Campus - and the Annual APS Awards Dinner will be held within the iconic Titanic Building.

The Convention this year will, as might be expected, focus on the direction that UK Health and Safety is heading with one and a half days of presentations, workshops and discussions. Presentations are being arranged from industry and HSE leaders – with a clear focus on discussing the potential impacts of the proposed new CDM Regulations - as well as taking forward ideas about integration of Design Stage Co-ordination, Co-ordinating Contractors and sub-contractors. The Irish experience of meeting the EU Directive “Head On” will be covered as well how Spain has implemented the Directive – with a clear focus on discussing the potential impacts of the proposed new CDM Regulations - as well as taking forward ideas about integration of Design Stage Co-ordination, Co-ordinating Contractors and sub-contractors. The Irish experience of meeting the EU Directive “Head On” will be covered as well as looking at how Spain has implemented the Directive – with a range of case studies to demonstrate and identify the ways in which alternative CDM regimes can work / or raise problems. These will all provide a basis for delegate workshops in which discussion of what is working, what is not working and where we should be heading will give us all an idea of what might happen next.

The Convention programme is being finalised as the proposed new regulatory package and consultation on these possible new CDM regulations are rolled out – so watch out for more details in months to come. In the meantime, put a Belfast Convention marker in your diary and make the 2013 Convention one of your “Must Dos” for this year.

NEW RIBA PLAN OF WORK LAUNCHED

The new RIBA Plan of Work has now been launched – redefining the work stages and processes for building design and construction.

First developed in 1963, the RIBA Plan of Work is the definitive UK model process descriptor and now includes an on-line resource enabling professionals to browse, customise and download a plan of work. This is intuitive to use and provides on-screen help at each stage.

The Plan of Work 2013 comprises eight work stages, each with clear boundaries and details of the tasks and outputs required at each stage. The on-line tool revolves around these eight project stages providing a flexible ‘kit of parts’ that can be used to produce a focused practice or project-specific Plan of Work. The RIBA Plan of Work 2013 can be explored at www.riabanowork.com and is essential reading for all involved in construction.

COUGH UP FOR SICK LEAVE

Research by think-tank, Demos, has revealed that 51% of employees assume that their employer would pay them their full salary for at least three to six months if they faced a period of sickness absence. The study suggests that UK workers are risking their own financial security by failing to protect themselves adequately, in case they are forced to leave work through illness or injury. The Demos survey also noted:

- Companies are only legally obliged to pay Statutory Sick Pay, currently £85.85 a week, and for a maximum of six months.
- The survey of 2,024 adults also revealed that 23% of respondents have no financial safety net in the event they would not be able to work long-term, with 35% saying that they would rely on their own savings. However twice as many people choose to insure their pet (13%) or mobile phone (12%) compared with taking out income protection insurance to protect their monthly wages (6%).

INCOMPETENCE THE WAY TO GO?

The Dilbert Principle, a satirical observation by cartoonist Scott Adams states that “companies tend to systematically promote their least-competent employees to management (generally middle management), in order to limit the amount of damage they are capable of doing”.

In the Dilbert strip of February 5, 1995, Dogbert says that “leadership is nature’s way of removing morons from the productive flow”. Adams himself explained: “I wrote The Dilbert Principle around the concept that in many cases the least competent, least smart people are promoted, simply because they’re the ones you don’t want doing actual work. You want them ordering the doughnuts and yelling at people for not doing their assignments—you know, the easy work. Your heart surgeons and your computer programmers—your smart people—aren’t in management.”

Adams explained the principle in a 1995 Wall Street Journal article then expanded his study of the Dilbert principle in a satirical 1996 book of the same name, which is required or recommended reading on some management and business courses.

TO MEET THE REQUIREMENTS OF THE EQUALITY ACT 2010, THE APS DIGEST CAN BE ACCESSED IN ALTERNATIVE FORMATS BY CONTACTING APS

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