

CDM 2015 transition provisions

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Helen Turner considers how contractors can manage the transition to their roles and responsibilities under the new CDM regulations

Q We have a contract that was signed in November 2014 and was due for completion in August 2015, under which we agreed to be the Construction (Design and Management) coordinator (CDMC). But after the new CDM regulations have come into effect, the employer has mentioned that we now need to become the principal designer. Does that change affect us? We were not aware of the changes when we signed the contract.

A It is correct that the Construction (Design and Management) Regulations 2007 were replaced by [the Construction \(Design and Management\) Regulations 2015](#) (CDM 2015). You will therefore need to consider the transitional period provision, as well as the new role of principal designer (PD).

The CDM 2015 came into force on 6 April 2015. Therefore, from that date CDM 2015 applies to all projects, regardless of when they commenced. The [Health and Safety Executive \(HSE\)](#) is at pains to stress that there was no transitional period for CDM 2015. As such, the CDM 2015 will apply to your contract, although there are additional considerations to bear in mind.

For example, if a CDMC was appointed before 6 April 2015, the new regulations include transitional arrangements for a project commenced before that date. Schedule 4 of the CDM 2015 provides that where the client has appointed a CDMC, it must appoint a principal designer by 6 October 2015. Therefore, the CDMC can continue until the end of the project, provided this falls before 6 October 2015.

Transition period

The transitional period under Schedule 4 ended on 6 October 2015; therefore, if the ongoing works can be characterised as a continuation of an existing project, the CDMC can remain in place until then, after which a PD would be appointed.

If no CDMC was appointed under CDM 2007 for an existing project, and if the construction phase started before 6 April 2015, the duty to appoint a principal designer under the CDM 2015 is disapplied (Article 3 of Schedule 4). It is worth noting, however, that several of the PD's obligations will fall on the principal contractor. In those circumstances, an employer may choose to appoint a PD in any event.

Another practical consideration is whether the outstanding works are a continuation of the existing project (as a variation under the contract), or whether they should be treated or notified as a new project. If the latter applies then the transitional matters discussed above can be disregarded and CDM 2015 applied in full.

Role of the principal designer

From your question, it seems that steps have already been taken to appoint a PD. In practical terms, the arrangements for converting the existing CDMC into a PD can be quite time-consuming, so it is good news that this is already under way.

The role of principal designer is not intended to be a rebranding of the CDMC but a hybrid role that needs the relevant skills and experience

Left until close to the deadline - as we anticipate it may be in some cases - it may create real difficulties, because not all CDMCs will be competent to be a PD.

The role of a PD is not intended to be just a rebranding of the CDMC role. It is a hybrid role that needs the relevant skills and experience in relation to the management of the HSE during the pre-construction phase, and a design capability in respect of the coordination and oversight of the designer's role. It is envisaged that the PD will function within the overall project team.

If you decide to take on the role of PD, you will need to consider in more detail whether you have the relevant skills and experience.

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Further information

- Related competencies include [Project maintenance](#)
- This feature is taken from the RICS *Construction Journal* (November/December 2015)