

STA Advice notes

Health and Safety, plus welfare



No. 9 - Part 2, May 2016

Part 2 - CDM regulations relating to domestic clients

Key topics in this document

Building System Supply Members involved in self-build market; CDM 2015; responsibility in the contract appointment; client duties with domestic works.

Objective

To provide members with advice on the scope of roles and responsibility levels in Construction (Design & Management) Regulations 2015 (CDM 2015) relating to domestic client/self-build projects.

Who should read this

STA members involved with domestic client projects - for example construction of a self-build home.

Brief definition of terms used in this document

The domestic client is the person who has construction work carried out on their own home, or on the home of a family member. The property on which the work is carried out must not have a connection with a business, such as a small developer or work undertaken on a shop or office attached to the home.

The principal contractor role is the person or company contracted to manage the construction site process and take responsibility of the health and safety and welfare as they take place on site.

The principal designer role is the person or company who takes overall responsibility for the design of the project - the planning, managing, monitoring and coordination of pre-construction phase health and safety.

CDM duties are those laid down in the regulations which safeguard the welfare of persons involved in site process and maintenance.

Why is this Advice Note important?

With a domestic client project (for example a self-build home), unlike a commercial client project, most of the duties of the client will transfer to the principal contractor unless it is otherwise agreed by the domestic client. CDM 2015 recognises the likelihood that the domestic client will not have the expertise or back up to understand the construction industry in respect of Health and Safety. As such, if the client does not make any formal appointments then the client's duties will be transferred to the contractor (where there is only one contractor) or to the principal contractor (where there is more than one contractor).

Information based on advice from



Key point 1

The client's duties on a domestic project, under CDM 2015, will transfer to the project principal contractor, even if they are not appointed as such in writing.

Domestic clients under CDM 2015

Regulation 7 of CDM 2015 deals with projects for domestic clients. It is the client for whom the building is for which determines if the project is considered, under CDM 2015, as a 'domestic client'. It is not necessarily the organisation which employs the structural timber frame provider or design professional and/or erector.

On a domestic client project

Unless the domestic client specifically appoints a principal designer and / or a principal contractor, the domestic client's duties are automatically transferred to the project principal contractor. **On any project it is important to establish who the principal designer and principal contractor are.**

What are the client's duties?

The client's duties are listed in Regulation 4 of CDM 2015. The HSE guidance states that if the contractor complies with its own duties as a contractor, then it will be taken that the contractor has complied with the transferred client's duties. Refer to the HSE website [here](http://www.hse.gov.uk/pubns/books/l153.htm) <http://www.hse.gov.uk/pubns/books/l153.htm>

Working for a domestic client - construction phase

It is possible in a small self-build project that the role of principal contractor can change during the construction process. This may result in the structural timber frame contractor or erector taking on the principal contractor's duties for the period of time he/she is in control of the construction phase of the project.

Key point 2

The requirement, under Regulation 6 of CDM 2015, to notify the HSE of the project automatically passes to the principal contractor.

A project involving more than one contractor - principal contractor

If the domestic client has not formally appointed a principal contractor then the principal contractor, will be deemed to be the contractor in control of the 'construction phase' of the project. Construction phase means the period of time from when construction work for a project starts - and ending when the construction work is completed.

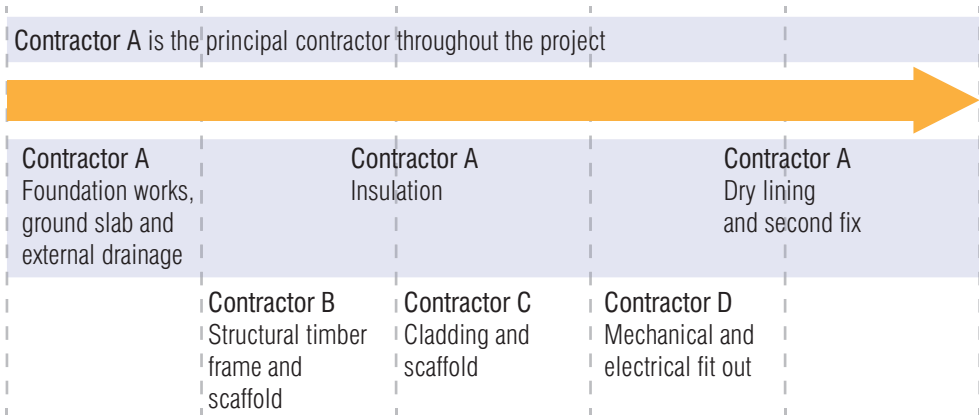
Key point 3

The principal contractor's duties are to plan, manage, monitor and coordinate health and safety in the construction phase of the project.

The trade contractor(s) duty is to feed into and comply with the principal contractor's construction phase plan - and to comply with Regulation 15.

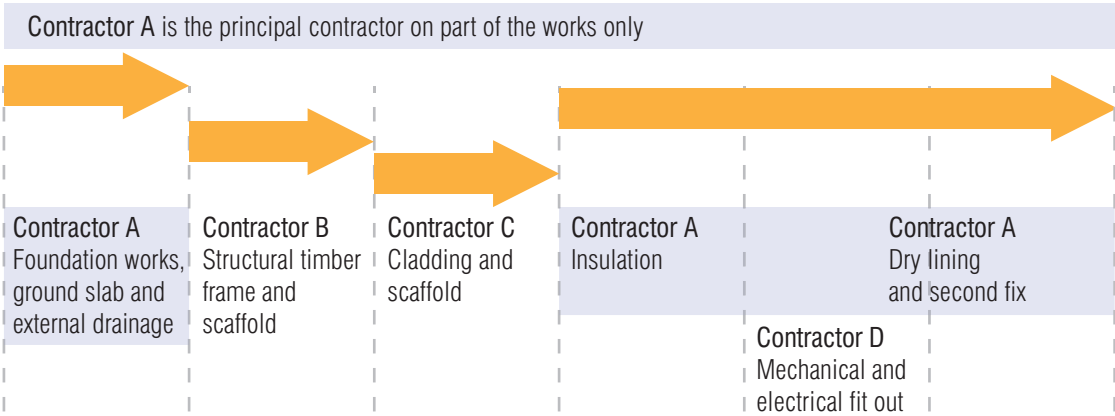
A contractor who only provides a structural timber frame shell is likely to be classified as a 'contractor' and not be a principal contractor, unless it is the only contractor on site or it takes over the running of the complete site and therefore, an element of the construction phase for a period of time.

Where individual contractors provide trade packages at separate times in the construction phase, careful consideration by the contractors is needed to address which contractor will be deemed to be the principal contractor. It will be a question of fact on a site-specific basis as to which contractor is 'in control' of the construction phase. For structural timber frame contractors who provide a full house assembly package (which may including windows, insulation, roof tiles etc.), there is a possibility that they will be deemed to be the principal contractor on a project and therefore, must carry out the client's duties together with the principal contractor's duties. Where the full house package is managed by the structural timber frame supplier then they will almost certainly be the principal contractor.



When the principal contractor (A) is from the same company throughout the project.

NOTE:
The principal contractor may not be present all the time on site, but visits and is responsible for the construction phase plan.



When the principal contractor varies throughout the project, handing on the construction phase plan.

Key point 4

To avoid any ambiguity, it is recommended that you confirm in writing to the other contractors who is the principal contractor for the project.

Principal designer

A principal designer is a designer who is required to plan, manage and monitor the pre-construction phase. Where a domestic client wants a designer to manage their project, the domestic client can appoint, in writing, the designer as the principal designer.

If the client does not appoint a principal designer in writing, the designer in control of the pre-construction phase of the project is deemed the principal designer. Therefore, if you are designing the project and involved in the pre-construction phase, feasibility stage or design development of the project then it is likely that you will be classified as a designer and as such, will also be the principal designer, as well as the principal contractor.

Key point 5

Check if you have taken on the role of principal designer. Clarity in your contract is recommended and it is not possible to exclude yourself from being the principal designer if you are involved in the pre-construction and no other designer has been appointed.

Further reading

1. STA Advice Note 9, Part 1 – CDM regulations
2. Guidance for self-builders in general is available on the self-build portal website <http://www.selfbuildportal.org.uk/healthandsafety>
3. Managing health and safety in construction. Construction (Design and Management) Regulations 2015.
<http://www.legislation.gov.uk/uksi/2015/51/contents/made>
4. Guidance on regulations L153. <http://www.hse.gov.uk/pubns/books/l153.htm>
5. Industry guidance for clients (CDM15/1) <https://www.citb.co.uk/documents/cdm%20regs/2015/cdm-2015-clients-interactive.pdf>
6. Industry guidance for principal contractors (CDM15/5).
7. Need building work done? A short guide for clients on the Construction (Design and Management) Regulations 2015 (INDG411(rev1)).

For professional legal support on contracts contact:

Alan Tate

Trowers & Hamlins LLP

t: 01392 612330

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