

# Client's Business

**SID**

**Clients own and fund projects. They have a vital role in standard setting and all designers and contractors must be able to advise how to establish the suitable arrangements Clients must make for successful project delivery.**

**Clients come in a wide range of types and sizes and the detailed application of their duties needs to be appropriate and proportionate. Client duties are extensive. That is why designers must understand them in some detail so they can advise professionally.**

**A Client's headline duty is to establish the suitable arrangements for managing a project. The Principal Designer and Principal Contractor must then respond with suitable plans supported by the arrangements for managing and monitoring.**

The suitable arrangements made by the Client specifically require:

- Clarity on who the CDM Client is
- Safe and healthy project delivery
- Welfare facilities
- Continuous review of arrangements
- Pre-Construction Information for a wide range of recipients
- Appointment of Principal Designer and Principal Contractor in writing where required by CDM
- Development checks on the statutory documentation prepared by the Contractor or Principal Contractor and Principal Designer
- Principal Designer compliance
- Principal Contractor compliance
- Notification to the HSE (Or specialist regulator for Rail and Nuclear)
- Taking steps to procure suitable team members
- Cooperation
- Information provision that can be understood by those who receive it

For most projects, a Client is exposed to considerable risk and professionals must be able to help them to manage and mitigate that risk effectively. Designers are usually in the best position at the start of a project to help their Clients establish project arrangements.

Domestic Clients and Self Build Clients are affected in different ways and are covered later in this Guide.

**Life outside the tick box.**



## Why clients are given so much legal responsibility

In sectors where clients demand high standards of health and safety the building and construction industry has learnt to respond positively, achieving higher standards of health and of safety. Regulators have therefore decided to give Clients a range of statutory duties with reciprocal duties placed on other members of the delivery team.

This collaborative approach is difficult for some to manage in an industry that has developed transactional or even adversarial approaches to contract management.

With building and construction costs being higher than many clients anticipate it can be difficult to explain to Clients that they must also take responsibility for, and fund, health and safety systems and responsibilities that they frequently had assumed would be part of the professional service provision.

Any designer who does not have these important early conversations with their client may also be hiding from their client other requirements placed on their client that have cost, value or functional impacts on the asset.

Designers need to be careful with their advice. Domestic Clients hold no liability under CDM in almost all cases and so the advice that needs to be given to them will be different.

## Building the project team

While it may seem obvious that any client would want the best team available to deliver their project, defining what “the best” means in practice is difficult. As projects progress the team members will change and their importance in the hierarchy can ebb and flow considerably. Adding complexity, individuals who have special skills in one area, say historic buildings, may not have expertise in another area, say highways, agricultural or commercial. Clients will need help with building the right team from the start.

For any project where there are or will probably be two or more contractors there is a statutory requirement for the project leadership team to comprise Client, Principal Designer and Principal Contractor. Using other common terminology the Principal Designer needs to be the Lead Designer and the Principal Contractor the Main Contractor. Any other arrangement is unlikely to deliver high level integration or effective communication of project management arrangements and is unlikely to be compliant.

There are a great many ways of arranging the leadership team. For instance:

- For a design and build contract the Principal Designer and Principal Contractor will usually be the same company;
- The Client may wish to retain another top table role such as Principal Designer, or even all three roles. While this adds to the Client’s liability it also adds to their ability to control how the project is planned, managed and monitored. Whether this is advisable depends on the Clients skill, knowledge and experience and on their risk appetite and management approaches.
- Towards the end of the project the work of the Principal Designer may have been finished and it is then possible to terminate their appointment and not to re-appoint any one to this role. The leadership team will then be the Client and the Principal Contractor only. It may be advisable to retain the Principal Designer as a Designer to provide access to design concept and strategy.

Life outside the tick box.



Designers who are providing detailed advice to Clients on the options available need to have a wider understanding of the implications of the arrangements that they recommend and the detailed implications of what is finally decided.

Designers who are not able to provide a suitable level of advice about building the Team in a CDM environment should seek specialist advice from professionals who are able to help.

For most projects, as soon as a Principal Designer and Principal Contractor are appointed, it is these organisations who will provide advice and support directly to the Client, allowing other designers to focus to a greater degree on their special expertise.

## Suitable management arrangements

CDM 2015 requires the project management of health and safety in a collaborative environment. This means that project and programme management tools used to deliver building and construction projects are ideally suited to the practical arrangements required.

The RIBA Plan of Work is a very useful starting place. This staged approach to project delivery recognises the wide variety of constraints and considerations required and allows for them to be considered in a logical manner. Building Information Management (BIM) uses the RIBA stages and they are generally understood across the industry, including on most infrastructure projects, where they are not always so relevant.

Major infrastructure Clients will develop their own project and programme planning arrangements and require their suppliers to take these into account. Titles like Gateway Process or Management Plan may be given to such approaches and you will need to learn to recognise them for what they are.

The **process** at its simplest is straight forward:

- The Client establishes their required arrangements. This is about achieving overall Client requirements and is likely to be some kind of project management plan;
- The Principal Designer responds with a Design Execution Plan or pre-Construction Phase Plan. This is about planning integration of design and management of appropriate information flows;
- The Principal Contractor responds with a Construction Phase Plan. This is about planning all site activities and information flows.

Each of these duty holders is required to assist the other two duty holders and it is imperative that these arrangements are agreed at an appropriate level of detail from the earliest opportunity. Changing arrangements once projects have started becomes more and more complex and risky.



The information flow at its simplest is:

- The Client provides a brief which sets out how they want an asset they own modified.
- The Brief or a separate document will also need to explain how they wish a project to be managed to achieve success (the suitable arrangements required under Regulation 4).
- The Client provides Pre-Construction Information which describes the condition of the asset and its relationship with its surroundings.
- The Principal Designer responds with a Design Execution Plan or similar. Included in this may be the need for additional information to be discovered to allow a solution to be developed by designers eg ground condition for foundation choices.
- The Principal Designer captures the changes to the asset that are proposed and then collects and collates confirmation that these are delivered in a document referred to as the CDM Health and Safety File.
- The Principal Contractor responds with a Construction Phase Plan for managing the actual works.
- The Principal Contractor provides confirmatory evidence of the changes that have been made for inclusion in the Health and Safety File.
- The Health and Safety File will be the main source of Pre-Construction Information for the next project on this asset and is usually best structured in the same format as the Pre-Construction Information.

## Domestic projects

The Domestic Client is not at work and so the Health and Safety at Work etc Act and Regulations made under it, including CDM cannot be applied to them.

Domestic Clients can still be prosecuted under Manslaughter legislation and can still have civil claims made against them.

As soon as a domestic Client appoints a supplier the duties that would normally be the CDM Client transfer to the Contractor unless a Designer has been appointed to the role in writing. Similarly, the appointment of the Principal Designer and Principal Contractor do not need to be made in writing for domestic projects but will happen automatically.

It is important to recognise when Clients are Domestic Clients.

For instance, a home owner who has bought a share of a residential property will be a domestic Client for works done on their own property but a commercial Client for works done through any management company established to manage common areas and the building envelope.

It is also important to recognise that Domestic Clients who get involved in their project actively may attract liability designed to cover the self build sector.

Life outside the tick box.



## Self build projects

Self build Clients or Domestic Clients who retain aspects of control can attract limited duties under CDM 2015. Regulation 16(3) sets this out. The Client becomes responsible for practical project delivery requirements laid out in the Part 4 of CDM 2015 but not for the CDM Client duties in Part 2 and 3.

## Voluntary work

Be careful! Voluntary work is usually under the control of a charity or similar body and is not Domestic work. Clients and their professional advisers have all the statutory duties, responsibilities and liabilities of CDM 2015. Work for a local sport or social club needs to be managed properly and CDM 2015 applied in full.

## Useful resources

CITB published CDM 2015 Guidance for Clients

<https://www.citb.co.uk/documents/cdm%20regs/2015/cdm-2015-clients-interactive.pdf>