



CDM and the Management of Contractors

Policy

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1 PART ONE CONSTRUCTION DESIGN

1.1 INTRODUCTION

Health and safety management systems must be in place to ensure the selection and monitoring of contractors is achieved. This Construction, Design and Management of Contractors policy is supported by the 'Contractor Site Health & Safety Induction Pack' and Corporate Health & Safety Policy.

All of which have been approved by the Corporate Health and Safety Committee to define the Council's policy for ensuring that all work involving contractors is safely managed by competent persons. The Council recognise the risk of poor management of contractors, including contractor selection and control, and are ultimately responsible for ensuring compliance with health and safety law.

It is noted that the New Build Housing Development Team have their own specific policy titled 'Management of Construction Risks - Control of Contractors', in addition to the corporate policies and guidance.

1.2 CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2015

Construction and demolition activities carry significant risks and can be undertaken safely only by persons with appropriate knowledge, training and experience. It is The Council's policy that such work must be managed by suitably qualified and competent professionals.

The best method of meeting this standard of competence is to contract out construction work. CDM 2015 and Health and Safety legislation in general impose duties on clients commissioning work to exercise due diligence to ensure that their contractors work safely. The Council will have specific duty holder roles and responsibilities that fall under the CDM regulations.

The principles of the Council's policy for selecting and managing competent contractors are defined in this policy, which should be read in conjunction with the Council's Commissioning & Procurement Standing Orders. For advice on the selection of contractors and managing construction work generally, contact the Council's Building Services team located in Community Assets & Property Development for non-housing related works and the Planned Maintenance team located in the Property and Place for housing related works.

This policy is not a definitive explanation of the Construction (Design and Management) Regulations 2015. It is provided only to alert Council employees to the duties of clients commissioning construction or demolition work. All construction work must either be through Building Services for non-housing related work and Planned Maintenance for housing related work.

1.3 SCOPE OF CDM REGULATIONS

Construction work is often misleading as many only consider construction as a large construction site, but construction work under the CDM 2015 regulations means the carrying out of any building, civil engineering or engineering construction work that includes:

- the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure, or the use of corrosive or toxic substances), de-commissioning, demolition or dismantling of a structure;
- the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation (but not pre-construction archaeological investigations), and the clearance or preparation of the site or structure for use or occupation at its conclusion;
- the assembly on site of prefabricated elements to form a structure or the disassembly on site of the prefabricated elements which, immediately before such disassembly, formed a structure;
- the removal of a structure, or of any product or waste resulting from demolition or dismantling of a structure, or from disassembly of prefabricated elements which immediately before such disassembly formed such a structure;
- the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure, but does not include the exploration for, or extraction of, mineral resources, or preparatory activities carried out at a place where such exploration or extraction is carried out.

The CDM Regulations apply to all building and construction projects and to all services utilising contractors to undertake any manner of work for the Council inclusive of work in properties, projects, people and the hiring of consultants, regardless of the size, duration and nature of the work including:

- All design work for the purposes of construction;
- All demolition or dismantling of structures.

A project is notifiable to the Health & Safety Executive (HSE) if the construction work on a construction site is scheduled to:

- last longer than working 30 days and have more than 20 workers working simultaneously at any point in the project; or
- exceed 500 person days.

The definition of maintenance work from the CDM 2015 Regulation 2 (1) and ACOP L 153 Managing Health and Safety in Construction states; "The following are not construction work as defined: general maintenance of fixed plant, except when this is done as part of other construction work, or it involves substantial dismantling or alteration of fixed plant which is large enough to be a structure in its own right, for example structural alteration of a large silo; complex chemical plant; power station generator or large boiler"

A common-sense definition of construction work should be applied, along with a risk -based approach. If it looks like construction work, requires construction skills and uses construction materials, it probably is construction work. General maintenance of fixed plant which mainly involves mechanical adjustments, replacing parts or lubrication is unlikely to be construction work.

If the maintenance work is defined as construction work, and there is only one contractor, then no Principle Contractor (PC) or Principle Designer (PD) appointment is required. However, a construction health and safety plan will be required. If more contractors are brought in, then a PC and PD need to be appointed for that particular project.

It is extremely important to note and understand that all construction work under CDM 2015 requires project planning, but the plan for smaller jobs should be simple, short and proportionate to the risks.

1.4 DEFINITION OF DEMOLITION, DISMANTLING AND STRUCTURAL ALTERATION

Demolition, dismantling and structural alteration are high-risk activities whose safe execution is both complex and technical and where expertise is vital. They require careful planning and execution by contractors who are competent in the full range of demolition techniques.

During demolition and dismantling, workers are often injured in falls from edges and through openings and fragile surfaces. Workers and passers-by can be injured by the premature and uncontrolled collapse of structures or parts of structures and by flying debris. Effective traffic management systems are essential to avoid workers being put at risk of being hit by slewing or reversing plant. Dust, noise and vibration are also significant problems that need to be considered and controlled when planning any demolition work.

The CDM Regulations apply to all demolition and dismantling work.

However, a project is only notifiable to the HSE when:

- The construction is scheduled to last longer than 30 working days, and it will have more than 20 workers working at the same time at any point in the building project,
- Or if the construction work has more than 500 person days.

A systematic approach to the demolition process starts with responsible clients who have a legal obligation to appoint adequately resourced and competent duty holders such as structural engineers, planning supervisors and principal contractors. It is vital that clients also fulfil their legal obligation to provide information about the structure to be demolished and this often means commissioning a pre-demolition structural survey from a structural engineer.

The expertise of a structural engineer must be used in the following cases:

- in the design of a façade retention scheme;
- where there is doubt over the building's stability;
- where there is doubt about the proposed method of demolition;
- where there is doubt about the capacity of the building to take loadings.

It is good practice to consult a structural engineer at the planning stage of demolition to avoid uncontrolled collapse.

The principal contractor, who may also be the demolition contractor, must be able to co-ordinate and manage the health and safety issues during the demolition works. References must be sought, and pertinent questions asked by the client to establish the credibility of the demolition contractor, especially if it is intended to appoint the demolition contractor as the principal contractor for the demolition phase of the work. A genuine and competent contractor will supply the name of the client for whom their last contract was carried out. They can be asked for information about the size and scale of the works, whether any problems were encountered, how the contractor performed and whether they would use the contractor again.

1.5 WHO HAS DUTIES?

The main purpose of the CDM Regulations is to improve the communication and co-ordination of health and safety arrangements by the multiple employers commonly involved in construction work.

The CDM 2015 Regulations are made under the Health and Safety at Work etc. Act 1974, so duties are imposed mainly on employers and the self-employed.

However, in this context the CDM Regulations assign duties to six key parties who may be organisations or individuals.

These are:

- **Client** - any party for whom construction work is carried out;
- **Designer** - any party commercially designing all or part of a structure;
- **Principal designer** – party who plans, manages, co-ordinates health and safety in the pre-construction phase of the project;
- **Principal contractor** - party with overall responsibility for co-ordinating health and safety during the construction phase of the project involving more than one contractor;
- **Contractor** - any party commercially carrying out or managing construction work;
- **Everyone** – CDM imposes duties on everyone involved in the project.

1.6 CLIENT DUTIES

The client's role is seen by the HSE as pivotal to setting the scene for goal setting and the client's expectations for construction safety management throughout the process. The client has a major influence over the way a project is procured and managed. Regardless of the size of the project, the client has contractual control, appoints designers and contractors and determines the money, the time and other resources available.

CDM 2015 sets out in Part 2 (Regulations 4 and 5), the client's duty to make suitable arrangements for managing a project, maintaining and reviewing these arrangements throughout and ensuring that the project is carried out in a way that manages the health and safety risks. For projects involving more than one contractor, these regulations require the client to appoint a principal designer and a principal contractor and make sure they carry out their duties. The Council by law, must provide pre-construction information from feasibility stage, to each designer (including the Principal Designer) and contractor (including the Principal Contractor) that is involved with a project, to fulfil the Client's duties under CDM 2015.

As a client the Council is required to:

- Ensure that suitable arrangements are made by them for managing a project, including the notification to the HSE or relevant enforcing authority and allocation of sufficient time and other resources;
- Confirm that people and organisations appointed by them have the necessary skills, knowledge and experience to carry out the work in a way that secures health and safety;
- Ensure that the construction work can be carried out, so far as is reasonably practicable, without risks to the health or safety of any person affected by the project;
- Ensure that suitable welfare facilities are provided;
- Provide pre-construction information to every designer and contractor appointed or being considered for appointment;
- Ensure that the contractor or Principal Contractor prepares a Construction Phase Plan before construction begins;

- Where applicable, formally appoint a Principal Designer and Principal Contractor as soon as is practicable and before the construction phase begins. (Note that these roles default to the client if no appointments are made);
- Ensure that the Principal Designer prepares a Health and Safety File (for projects involving more than one contractor).

1.7 DESIGNER DUTIES

Designers are required to:

- Confirm that the client is aware of the client's duties under CDM 2015;
- Eliminate hazards and reduce risks during design;
- Provide information about any residual risks to the Principal Designer and ensure that appropriate information is included in the health and safety file;
- Provide sufficient information about the design, construction or maintenance of the structure to adequately assist the client, other designers and contractors to comply with their duties under the regulations.

1.8 PRINCIPLE DESIGNER DUTIES

The Principle Designer (PD) function where possible, should attach to an existing design appointment. The chosen appointee should be a designer who is best placed to control the design and planning stage. This is likely to be an architect on new build or refurbishment projects or an engineer on mechanical or electrically biased projects. Initially, many designers may be unfamiliar with the duties placed upon them when acting as a PD. In these circumstances the PD should be encouraged to seek the support of a CDM advisor role. A CDM advisory role may also be suitable to ensure continuity throughout the project where different architects will be appointed.

Key function of the PD is to ensure Fire, Health and Safety (FHS) implications of the project are given due consideration, foreseeable risks are identified, reduced where possible and communicated to allow the project to be built (or refurbished), used, operated, maintained (including cleaned) without undue risks. They must:

- Plan, manage and monitor the pre-construction phase and coordinate matters relating to health and safety during the pre-construction phase to ensure that, so far as is reasonably practicable, the project is carried out without risks to health or safety;
- Identify and eliminate or control, so far as is reasonably practicable, foreseeable health and safety risks;
- Ensure that all designers comply with their duties;
- Ensure that all persons working in relation to the pre-construction phase cooperate with the client, the principal designer and each other.
- Assist the client in the provision of the pre-construction information;
- Liaise with the Principal Contractor for the duration of the Principal Designer's appointment;
- Prepare the Health and Safety File and hand it over to the client at the end of the project, or to the Principal Contractor where the Principal Designer's appointment does not extend to the end of the project.

1.9 WHO SHOULD BE APPOINTED AS PD?

This depends upon the nature and complexity of the scheme. On larger schemes, the Council should look towards an existing designer who is best placed to lead and control the design and planning stage. On smaller schemes, this may be undertaken in-house (with or without support). Initially, designers may be unfamiliar with the duties and may need to be encouraged to seek the support of a CDM Advisor role.

In all cases the PD must as per Regulation 8 (1) of CDM 2015 have the skills, knowledge and experience, and, if they are an organisation, the organisational capability, necessary to fulfil the role that they are appointed to undertake, in a manner that secures the health and safety of any person affected by the project.

The PD should be a direct appointment by the Council, in circumstances where the designer acting as PD novates across to the contractor then the PD function should remain with that designer. However, to ensure independence, avoid potential conflicts of interest a CDM Advisor should be appointed as a monitoring role to ensure compliance with Regulation 4 (2)(b) (welfare), (6)(a)(b), PD & PC are complying with their duties and where applicable Regulation 5(3)(4).

1.10 ON SMALLER PROJECTS AND PLANNED WORKS

There is no reason why on smaller projects that the role of Principal Designer (PD) cannot be undertaken by a member of Building Services or Planned Maintenance team or an external organisation. They must meet the competencies as detailed in regulation 8 and if an internal appointment this must be made formally by the person's manager once the assessment has been made and prior to the works commencing. This appointment can be made via e-mail.

When a project spans between Building Services or Planned Maintenance and another service area, for example a refurbishment works, then it will be agreed which department will nominate an individual to act as PD. This will depend on the planned works. An example would be a complete refit of IT equipment with the room having a coat of paint the PD would probably be better appointed from Building Services.

The PD is a primary duty holder of CDM 2015 and an integral part of a Design Team. The PD must be a designer on the project and be in a position to have control over the design and planning stage.

The PD needs:

- a technical knowledge of the construction industry, relevant to the project;
- an understanding of how health and safety is managed through the design process the skills to be able to oversee health and safety during the pre-construction phase of the project and the ongoing design.

If the PD function is completed by an internal resource e.g. Building Services, then they will be the duty holder. On larger schemes or those of an unusual nature or those presenting significant risks the Council will need to appoint externally. In these, circumstances the PD will be required to complete the PD functions in their entirety.

Ideally, the PD should have skills commensurable with the type of project under consideration i.e. an architectural background for building refurbishment projects, an engineering background on mechanical biased projects and electrical where works involve significant changes to electrical infrastructure. Whether internally or externally appointed the PD should be active at

the all stages including feasibility, design, pre-construction, construction and handover of a project.

Note:

All appointments made whether internal or external must also be formally confirmed in writing. Where the appointment is not made in writing before the work commences then these roles and responsibilities fall back to the Council.

1.11 PRINCIPAL CONTRACTOR DUTIES

A Principal Contractor must be appointed where there is more than one contractor working on a project. The Principle Contractor's duties are as follows:

- Plan, manage and monitor the construction phase and coordinate matters relating to health and safety during the pre-construction phase to ensure that, so far as is reasonably practicable, the project is carried out without risks to health or safety;
- Organise cooperation and coordination between contractors;
- Ensure that site inductions are provided;
- Ensure that necessary steps have been taken to prevent access by unauthorised persons to the construction site;
- Ensure that suitable welfare facilities are provided throughout the construction phase;
- Liaise with the Principal Designer for the duration of the Principal Designer's appointment and share with them relevant information;
- Where the Principal Designer's appointment does not extend to the end of the project, hand over the Health and Safety File to the client.

1.12 CONTRACTOR DUTIES

Contractors are required to:

- Confirm that the client is aware of the client's duties under CDM 2015;
- Plan, manage and monitor their own work and that of their workers;
- Comply with directions given by the Principal Designer and the Principal Contractor (when such appointments apply);
- Prepare the Construction Phase Plan (where there is no Principal Contractor);
- Check that any appointee has, or is in the process of obtaining, the necessary skills, knowledge, training and experience;
- Provide each worker under their control with appropriate supervision, instructions and information;
- Not begin work on a construction site unless reasonable steps have been taken to prevent access by unauthorised persons to that site;
- Ensure that suitable welfare facilities are provided;
- Health and Safety File: A file appropriate to the characteristics of the project, containing relevant health and safety information to be taken into account during any subsequent project. The file is only required for projects involving more than one contractor;
- Construction phase plan: A plan which sets out the health and safety arrangements and site rules taking account, where necessary, of the industrial activities taking place on the construction site.

1.13 EVERYONE

More generally, CDM 2015 imposes duties as follows on everyone involved in the project to:

- Be able to demonstrate they have the necessary health and safety skills, knowledge and experience to carry out the work;
- Co-operate with others involved with the project or any project on an adjoining site;
- Report instances where they or others are working in a way that puts them or anyone else in danger;
- Where they are required to provide health and safety information or instructions to anyone else, to ensure that this is easy to understand and is provided in a timely manner.

2 MANAGEMENT OF CONTRACTORS

2.1 SCOPE OF MANAGEMENT OF CONTRACTORS

It is applicable to all contractors working directly under the instruction and management of either DBC owned premises or DBC leased premises.

2.2 PURPOSE

Health and safety management policies and guidance must be in place to ensure the selection and monitoring of contractors is achieved. The Council recognise the risk of poor contractor selection and control, and ultimately are responsible for ensuring compliance with health and safety legislation.

The purpose of the policy that details the Management of Contractors is to ensure that DBC meets its responsibilities in accordance with the following legislation:

- Health & Safety at Work Act 1974;
- Management of Health & Safety Regulations 1999;
- Construction (Design and Management) Regulations 2015.

With respect to contractors/consultants. The policy ensures contractors and consultants, whether engaged or not on construction/maintenance work to perform their duties with due regard to occupational Health and Safety.

The policy deals with the necessary steps to be taken by an employee wishing to use a contractor at sites and deals with the control of that contractor whilst working.

The procurement of all works must be procured in compliance with the Council's Commissioning & Procurement Standing Orders, advice should be sought from the Council's procurement team.

It is intended that only approved contractors and consultants, who have met all the conditions of the approval procedure are permitted. To assist with the process there is a need to:

- ensure acceptance criteria with regard to the selection of contractors before the award of contracts is clearly stated;
- The requirement for pre-contract meetings are required;
- provide potential contractors with adequate and comprehensible information to enable them to comply with relevant statutory provisions is made explicit;

- Evidence of satisfactory health and safety performance to satisfy acceptance criteria including:
 1. Scrutiny of contractor's health and safety policy documents;
 2. Scrutiny of the contractor's accident performance;
 3. Scrutiny of the contractor's health and safety management system;
- The contractor is to hold regular meetings with the client to discuss health and safety issues;
- Contractor plans or method statements/Construction Phase Plan to include the following:
 1. Competence of key individuals involved with the project or contract;
 2. Details of joint health and safety inspections or monitoring arrangements;
 3. A general description of the work comprised in the project or contract;
 4. Details of the time within which it is intended that the project and any stages will be completed;
 5. Details of the reasonably foreseeable risks to health and safety of any persons carrying out the work;
 6. Details of the reasonably foreseeable risks to health and safety of other persons not carrying out the work and likely to be affected;
 7. Any other information that all parties concerned may be reasonably expected to know in order to carry out the work required and to comply with any requirements placed upon the client and contractor;
 8. That joint health and safety inspections or other monitoring arrangements, take place and are completed within the allotted timescale.

2.3 PROCUREMENT

The Council have produced a 3-stage approach:

1. Pre-procurement;
2. Tender Process;
3. Contract Period.

A number of documents have been produced that support officers to ensure their projects comply with this procedure.

2.3.2 Pre-Procurement

- Prior to the procurement process commencing, the client should (where appropriate) undertake open dialogue with the market to understand amongst other things the market's understanding of health & safety;
- During the commissioning period, the client must fully understand the Health & Safety implications of the Service or the Works that are being procured;
- The Health & Safety requirements (legislation, standards, standard operating procedures etc.) must be clearly stated and be included within the minimum requirements of the specification, and/or included within the evaluation criteria and included in the terms & conditions of contract;
- A Health & Safety checklist (appendix A) has been produced to support DBC staff (the client) to ensure that all relevant Health & Safety implications have been taken into consideration throughout the commissioning process;
- Tender templates are available for the appointment of a CDM Adviser if required.

- The client must also understand the Health & Safety responsibilities of the Council and the Contractor or Service Provider and ensure that the appropriate level of resource (experience, skill, awareness etc.) for all parties.

2.3.3 Tender Process

- Update all Supplier Questionnaires (SQ) and Invitation to Tender (ITT) to include the new Health & Safety questions (based upon Pas91), which must be completed and submitted by Bidders. This will be evaluated by an appropriately experienced officer from the client (CDM Adviser);
- All lower value quotations for Works and Services will include a Contractors Health & Safety Questionnaire (based upon Pas91), which must be completed and submitted by Bidders. This will be evaluated by an appropriately experienced officer from the client (CDM Adviser);
- In addition submissions should include any specific Health & Safety evidence that demonstrates compliance with the minimum requirements part of the specification and provide responses to any Health & Safety questions that are included within the tender evaluation. This will be evaluated by an appropriately experienced officer from the client (CDM Adviser).

2.3.4 Contract Period

- Where a project is notifiable under the CDM regulations (project that lasts longer than 30 days and has more than 20 workers, working simultaneously at any one point or exceeds 500 person days) then project will not commence until Procurement have received a copy of the signed F10 form. A central database needs to be kept by Procurement;
- A Health & Safety Site Inspection Report must be undertaken at regular intervals for all Works & Service contracts in accordance with the CDM Adviser;
- A Management of Construction Risks - Control of Contractors document must be undertaken for all Works & Service contracts in accordance with the CDM Adviser;
- Rocket to be used to monitor Health & Safety compliance on an ongoing basis. Questions on contracts to monitor – value/risk/complexity and Monitored monthly.

2.4 DEFINITIONS

Contractor

Any individual, firm, company or organisation that provides and receives payment for a service performed on or to the Council site and that affect the operations of the Council and is not a direct employee of the Council.

This includes consultants and consultancy work whether done on or off the site as well as installation contractors/ equipment suppliers and covers all services of the site; all engineering and building work, insurance, computer, procedure and inspection work, cleaners and waste removal work, etc. within any area under the control of the Council.

Site Contact or Nominated Deputy

The person who arranges for contractors to come onto site and takes responsibility for them; including arrangements for induction and monitoring.

The responsibility of site contact can be delegated to another member of personnel by prior agreement (Nominated Deputy).

2.5 LEGAL DUTIES

The basic principles of the Council's policy for ensuring safe working with contractors are:

- In proportion to the degree of risk, find out enough about relevant legal duties and professional qualifications to define competence and performance standards;
- Assess contractor capability and select only those who meet these standards;
- Specify the standards in contract terms;
- Monitor compliance and intervene if the standards are not achieved.

It is permissible for volunteers to undertake work instead of contractors but the same competence and performance standards must be enforced. Since there is unlikely to be a formal contract safe working requirements should be communicated via a risk assessment.

The following statutory duties are particularly relevant to work involving contractors.

Health and Safety at Work etc. Act 1974:

- Section 2 - the **employer** must ensure, so far as is reasonably practicable, the health and safety at work of all his employees. This duty cannot be delegated to contractors;
- Section 3 - the **employer** must ensure, so far as is reasonably practicable, the health and safety of all non-employees (including contractors and volunteers) involved in his activities;
- Section 4 - **persons in control of premises** must ensure, so far as is reasonably practicable, that the premises are safe for non-employees working there.

The meaning of the expression so far as is reasonably practicable (HASAWA Sections 2, 3 and 4) are subject to the qualifying statement **so far as is reasonably practicable**. This expression is not defined in law but implies a balance between the degree of risk and the amount of resources devoted to overcoming it. Risks can always be reduced by funding additional control measures but if the advantage gained is insignificant when compared to the expenditure the action is not reasonably practicable. Priority should be given to controlling the most significant risks. Application of this principle requires subjective judgement and in order to demonstrate compliance the decision-making process needs to be retrievable. Only the courts can decide what is reasonably practicable in any given case.

Failure to comply with HSW74 is a criminal offence and charges may be brought against directors, managers and employees as well as a **body corporate**, (e.g. the Council). Employees complying or attempting to comply with the Council's Health and Safety Policy will have a defence against individual prosecution.

Management of Health and Safety at Work Regulations 1999

Section 3 of the Health and Safety at Work etc. Act 1974 imposes general duties on employees and the self-employed to ensure the health and safety of non-employees. These are supplemented by specific requirements of the Management of Health and Safety at Work Regulations 1999 (MHSWR).

MHSWR Regulation 9(1) requires that where two or more employers share a workplace each employer must:

- Co-operate with the other employers to comply with health and safety law;
- Co-ordinate risk control arrangements.

MHSWR Regulation 9(2) stipulates that these duties must be applied to and by the self-employed as well as other employers.

The general co-operation and co-ordination duties in Regulation 9 are supplemented by specific requirements for information provision in Regulations 10 and 13. These place duties on the Council, other employers and the self-employed to make sure that comprehensible information about risks to health and safety and precautions to control them are communicated to all workers who are at risk. Where more than one employer is involved the regulations often place duties on **both** employers to communicate this information to ensure that its provision is not overlooked.

Regulations 10 and 13 refer to the following types of employer, employee and contract:

- **Employment business** - defined in Regulation 1(2) as a business which supplies its employees to work for and under the control of other persons (e.g. an employment agency);
- **Fixed-term contract of employment** - defined in Regulation 1(2) as a contract of employment for a specific term which is fixed in advance or which can be ascertained in advance by reference to some relevant circumstance;
- **Temporary worker** - indirectly defined by the title of Regulation 13 as an employee of an employment business or on a fixed-term contract;
- **Contractor** - not specifically defined by the regulations but interpreted for the purposes of DBC policy as an employer whose employees undertake work for the council but remain **under the control of the contractor**;
- **Self-employed person** - a person who attracts either or both of employer and employee duties under MHSWR depending on contractual arrangements which define who controls the work.

The communication requirements of this note generally refer to information which Council departments must provide to workers who are not Council employees. However, a Council employee working under the control of another employer would be owed similar duties by that employer.

2.6 RISKS TO THE HEALTH AND SAFETY OF NON-EMPLOYEES

Identified by risk assessments for operations controlled by Council managers must be communicated to:

- Temporary workers, contractors' employees and self-employed workers at risk;
- The employers of non-employees at risk.

This duty applies to risks inherent to Council premises or created by Council activities rather than risks associated with work managed by the other employer(s) or self-employed worker(s). However, Regulation 8 requires such risks notified by other employers to be passed on to Council employees.

2.7 HEALTH AND SAFETY PRECAUTIONS

Taken to control the risks must be communicated to:

- Self-employed workers at risk;
- The **employers** of non-employees at risk.

It is DBC policy to provide information on safe working procedures directly to non-employees as well as their employers where this is desirable and reasonably practicable. In particular temporary workers under the control of Council managers (e.g. agency staff) must be informed of relevant safety precautions.

2.8 SPECIAL OCCUPATIONAL QUALIFICATIONS OR SKILLS

Necessary for safe working must be communicated to:

- Temporary workers;
- Employment agencies providing temporary workers.

In addition employment agencies must be told the specific features of jobs likely to affect the health and safety of their employees.

Health surveillance requirements must be notified to temporary workers affected.

The identity of competent persons implementing emergency procedures must be made known to:

- Self-employed workers at risk;
- Temporary workers at risk;
- Contractors' employees at risk;
- The employers of non-employees at risk.

It is DBC policy to ensure that all non-employees are given all the information they need about emergency procedures.

2.9 PRINCIPLES OF SHARED HEALTH AND SAFETY MANAGEMENT

Different employers must co-operate with each other to ensure that health and safety arrangements:

- Cover all risks;
- Cover everybody at risk;
- Do not conflict.

Effective co-operation, co-ordination and management depends upon:

- Identifying and assessing foreseeable risks;
- Agreeing acceptable risk control measures;
- Agreeing which employer manages which control measures (ensuring no omissions);
- Agreeing competence standards for operators;
- Defining control measures and management responsibilities in written agreements (e.g. contracts);

- Communicating agreed controls and responsibilities to those who manage and undertake the work;
- Establishing mechanisms to monitor that agreed procedures are carried out;
- Establishing communication mechanisms to:
 1. Resolve misunderstandings about agreed procedures;
 2. Resolve non-compliance with agreements;
 3. Agree controls for unforeseen risks.

2.10 INFORMATION FOR NON-EMPLOYEES

Statutory duties for information provision are rather complex, the best way to ensure the health and safety of non-employees is to provide the following information directly to them:

- Emergency procedures;
- Identity of fire wardens, first aiders, etc;
- Safe working methods for activities controlled by Council managers;
- Correct contact(s) for further information.

This information should be provided as a verbal summary at the time of first attendance and backed up with documents as necessary.

2.11 TRAINING OF NON-EMPLOYEES

Training is the responsibility of the employer. Particular care must therefore be taken to ensure that agency staff, self-employed workers, etc. are competent to operate safe working procedures when working under the control of Council managers. Standards of competence should be agreed and verified prior to commencement.

Agency staff and self-employed workers should be given the same information on safe working and emergency procedures as employees. Where training is necessary to support these procedures, it should be provided (e.g. induction training, fire drills, etc).

2.12 CONTRACTORS

DBC policy on co-operation and co-ordination arrangements for contractors is defined within this policy.

2.13 SUPPLIER

Someone who only supplies goods thus all others by definition must be contractors.

2.14 WORKER UNDER THE CONTROL OF THE ORGANISATION

A Council employee, consultant or Council appointed contractor, working under the instruction of the Council as an organisation, who undertakes work-related activities under the control of the Council as a workplace. Note: organisations may also have a legal requirement for the health and safety of persons beyond the immediate workplace or those who are exposed to the workplace activities.

2.15 WORKPLACE

Any physical location in which work-related activities are performed under the control of the organisation.

2.16 CONTRACTOR APPROVAL

Any individual wanting to use a new contractor must follow the Council's Commissioning & Procurement Standing Orders, the following related linked documents include:

- Contractor Health and Safety (Pre-Procurement, Tender Process);
- New Build Housing Management of Construction Risks (Specifically for new builds);
- Health and Safety CDM Site inspection list;
- Process Map;
- Pre-Procurement Clients Checklist;
- Health and Safety questionnaire for contractors;
- CDM advisor services Invitation to Quote/Tender;
- Contractor Induction Pack.

The contractor will be requested to complete Contractors H&S Questionnaire and sign the Receipt of Contractor Site Health & Safety Induction Pack Form to confirm that they will conform to the guidelines issued and return the Council contact.

Through procurement, who use the contractor safety check systems of a 3rd Party Auditor, i.e. Pas91, CHAS Safe Contractor, EXCOR, Etc. will assess the proposed contractor on the following criteria and decide whether the Contractor will be approved or not:

- Experience in the work to be undertaken;
- Specialist skills and qualifications;
- Safety history and performance;
- Health & Safety Policy and Statement;
- Employers Liability Insurance, Public Liability Insurance and Professional Indemnity Insurance - the contractor must have Professional Indemnity Insurance if they are to carry out design elements of the works (D&B), but they must have Employers Liability (if they have no employees, this is not required) and Public Liability Insurance.

The indemnity levels of contractor's insurances MUST be (as a minimum) as follows:

- Public Liability – Minimum £5 million;
- Employers Liability - Minimum £10 million;
- Professional Indemnity - Minimum £2 Million;
- Risk Assessments & Method Statements;
- Statutory Inspection Certification for any contractor owned work equipment being bought onto site i.e. PAT testing certificates for electrical power tools.

Task specific Risk Assessments and Method Statements, which form the safe system of work, must be submitted to the Council client officer or Principle Contractor for review and approval prior to any approved contractor being permitted to carry out any work.

2.17 EMERGENCY CONTRACTOR PROCEDURE

In the event of an emergency contractor being required, which maybe a very specialised subject/area/profession or an urgent health and safety concern/repair. Where possible, with careful planning, the use of such procedure should not arise but it is still considered a potential possibility. The Emergency Contractor Form is to be filled in by the person wishing to use the emergency contractor along with the Insurance Certificate & H&S Policy Statement of the suggested contractor as a minimum.

Once the form has been completed; the person wishing to use the emergency contractor must obtain the client officer's signature prior to the emergency contractor starting work. They must also be satisfied that the person(s) controlling the emergency contractor is competent to do so and that the contractor will be working safely to the Contractors Site Induction Pack.

The person wishing to use the emergency contractor must arrange a site induction via the Council contact/client officer and must be responsible for the delivery of any site induction if working on a client site. Contractors must work safely at all times and with the necessary permits if required.

2.18 MONITORING, PERFORMANCE AND REVIEW OF CONTRACTORS

Contractor's performance with regard to health safety should be monitored in addition to monitoring quality of work and progress/supervision.

The frequency and depth of scrutiny of monitoring activities will be decided by the contract manager and will depend on the level of risk of operation and the contractor's experience of the site. The monitoring of contractors undertaking high risk activities should be more onerous than for low risk activities. The findings of monitoring activities should be reviewed and the information recorded for future reference.

Monitoring should be based on contractor's safety systems, risk assessments and method statements etc.

An annual review of the approved Contractors and their documentation should be undertaken to ensure that all documents are current and up to date with current legislation and to note any changes to the company i.e. their accident statistics.

2.19 ASSIGNING WORK TO A CONTRACTOR

If a contractor is required to undertake work within the DBC site; task specific risk assessments and method statements must be requested from the contractor as part of the planning and as early as possible to prevent any hold ups.

These documents; which form the safe system of work, must be submitted to the DBC client officer/DBC contact for review prior to any approved or emergency Contractor being permitted to commence with any work.

2.20 PROCEDURE FOR THE CONTROL OF CONTRACTORS ON SITE

Arrival on Site

On arrival at site; the PC and their contractors must establish contact with the Council's contract manager who will then arrange for the site induction.

It is the responsibility of the individual arranging a contractor to come to a site to ensure that the contractor has a contact name and details of the area they will be working in. The contact name must be someone who is on site or available when the contractor arrives. (It is also essential that sub-contractors know the name of their main contractor if the sub-contractor is not an approved contractor in their own right). All Contractors will be required to sign into the site using the visitors' book. The individual who greets the contractor will be responsible to ensure that this is done.

Notification of Contractors Working at Council Sites

It is essential that the Council are informed of a contractor's arrival on site each day to ensure that work is not started until the necessary permits, if required, are signed and the person responsible for the area is informed that work is being done in their area.

It is considered a serious safety offence for the PC and their contractors to do work unsafely and without any necessary permits and safe systems of work such that if a contractor is found to be working unsafely and without the necessary permit if required and safe systems of work, they will be asked to leave the site.

Induction

A contractor attending the DBC office for the first time shall receive an induction to the site and procedures on their first day on site by the DBC nominee they have permitted to carry out the induction.

The only exception to this are contractors who do not require access to or will not be working within the building.

This induction must be refreshed annually so records must be inspected by the contract manager so that the date of the last induction is known.

The induction will be based around the DBC Contractor Site Health & Safety Induction Pack which the contract manager will issue a copy to the contractor and they will be provided with information of all known hazards and procedures relevant to the activity.

The contractor will be requested to sign the DBC Contractors Health & Safety Site Induction Pack to confirm that they have received the induction and the document and that they will conform to the guidance issued.

They will be reminded that they are only allowed in the permitted working area and any designated welfare area.

Emergency Procedures

Although the approved contractor will have signed to indicate receipt of the Contractors Site Health & Safety Induction Pack; it is still the responsibility of the person undertaking the induction to ensure that all the contractors' operatives know the Company's Emergency

Procedure and where to evacuate to in event of the fire alarm being activated to enable the contractors operatives to be accounted for in an emergency.

Prior to Work Being Started and Permits

Risk Assessments and Method Statement shall be completed prior to work commencing as discussed above. In addition to this the Council have a duty to advise the contractor of any risks that they may be aware of in the areas they will be working and therefore must make the contractor aware. This may be advising them of other works taking place in the building or on the site that could impact on the work they are doing or may be affected by the work they are doing.

Where work is being done which is of a potentially hazardous nature, a "Permit to Work" must be obtained from the Council's contract manager before the contractor can start work each day.

The requirements for completing a "Permit to Work" are detailed in the Permit to Work procedure The Contractor Monitoring form will require completion with any permit to work.

Permits to work will be organised by the Council client officer. Contractors must inform the Council's contract manager of any high risk works such as hot works, working at height etc. prior to the work being carried out.

2.21 CONTRACTOR'S SITE INDUCTION PACK

Every PC receives a copy of the Contractors Health & Safety Site Induction Pack at induction which they are requested to read and sign to say they have received this copy and agree to working to the safety guidance. They also sign to say it is their responsibility to ensure that their contractors will also work to the code of practice.

Any contractor's operatives who fail to comply with this code of practice will be asked to leave site.

Smoking

It is a serious offence for anyone smoking or vaping within a "No Smoking Area" and the individual caught will be expected to be banned from the site.

Completion of Work

On completion of work the contractor will inform the Site Contact/Nominated Deputy or the client officer so that the work area can be checked and that any necessary permit that was issued can be signed off.

Leaving Site

On leaving the site; the contractor's operative will be required to sign the visitor's book to advise that he/she has left the site.

Storage of Completed Work Risk Assessment Sheets

Completed Risk Assessments for work carried out by any contractor shall be stored in the relevant contractor safety files.

2.22 ROLES AND RESPONSIBILITIES

3rd Party Auditors, such as PAS91, SSIP, CHAS, EXCOR, Safe Contractor. Etc. are responsible for vetting and approving appointed Contractors and ensuring that all Health & Safety documentation is monitored and regularly reviewed including insurance certificates.

The DBC Project Team/client officer/DBC contact are responsible for issuing and monitoring permits to work. They are also responsible for approving the use of emergency contractor requests. The Project Team/client officer/DBC contact shares responsibility with the person requesting the contractor to ensure that all contractors are inducted onto the site. They must also assess and approve Task Specific Risk Assessments and Method Statements submitted to the Site Contact or Nominated Deputy for work to be undertaken.

Site Contact or Nominated Deputy is responsible for ensuring that the client officer/main DBC contact are notified in advance of work commencing to ensure that a site induction is undertaken and that the contractor does not undertake any work without having an DBC site induction.

Contractor is responsible for answering all of the questions featured in the Contractors Health & Safety Questionnaire fully and truthfully and provide all requested documentation. They have a responsibility to work safely and follow the guidelines issued by DBC during the induction process.

Employees – any employee requiring the use of a Contractor are responsible for issuing the proposed Contractor with the Contractors Health & Safety Questionnaire and ensuring that this is completed and returned to the 3rd Party Auditor along with any requested documentation.

They also have a responsibility whenever a Contractor is required to work on site and obtain the Risk Assessments and Method Statements relating to the task to be undertaken. They are prohibited from allowing any works to be carried out by any Contractor until the Contractors RAMS has been approved.

2.23 ASSOCIATED DOCUMENTS

- Contractor Health and Safety (Pre-Procurement, Tender Process)
- New Build Housing Management of Construction Risks (Specifically for new builds)
- Health and Safety CDM Site inspection list
- Process Map
- Pre-Procurement Clients Checklist
- Health and Safety questionnaire for contractors
- CDM advisor services Invitation to Quote/Tender.
- Contractor Induction form
- Corporate Health and Safety Policy

2.24 LIST OF RELEVANT LEGISLATION

- Health and Safety at Work Act 1974
- Management of Health and Safety at Work Regulations 1999 (Amended)
- Construction Design and Management Regulation 2015
- Operational Estate: Building Compliance Guide
-

2.25 REVISION HISTORY

Revision no.	Issue Date	Nature of Change
01	December 2018	Draft

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2.26 APPENDIX A - CLIENT CHECKLIST

Client's Checklist					
A checklist for					

Client's actions during a project is included below. Some actions may need to be repeated during a project. This list should be checked to ensure that it appropriately addresses the requirements of a project.					
Client Checklist (for projects with more than one contractor)		Detail how this is evidenced (hyperlink or embed documents if needed)			
1	Be aware of client duties under CDM				
2	Check if Principal Designer has capability and necessary skills, knowledge and experience				
3	Formerly appoint Principal Designer				
4	Check Designers have capability and necessary skills, knowledge and experience and appoint				
5	If project is notifiable, instruct Principal Designer to issue F10 notification and receive copy				
6	Issue Project Brief				
7	Establish arrangements for managing health and safety				
8	Prepare schedule of key activities				
9	Check project team resources				
10	Ascertain if health and safety advice is required				
11	Agree scope of work for health and safety advisor and appoint				
12	Issue existing pre-construction information to Principal Designer				
13	Identify additional pre-construction information required by project team				
14	Procure surveys to obtain additional pre-construction information (if required)				
15	Check Principal Designer is complying with his duties				
16	Check management arrangements are being maintained and reviewed				
17	Agree structure and content and number of copies (electronic/ hard) for Health and Safety file (HSF) with the Principal Designer				
18	Prepare shortlist of tenders for Principal Contractor				
19	Check that tenderers have capacity and necessary skills, knowledge, training and experience				

20	Appoint Principal Contractor					
21	Receive copy of updated F10 notification from Principal Designer					
22	Check initial Construction Phase Plan is adequately developed by Principal Contractor					
23	Check suitable welfare facilities will be provided					
24	Check Principal Contractor is complying with his duties					
25	Check arrangements for managing health and safety are adequate for the construction phase					
26	Receive feedback from health and safety advisor and implement changes if required					
27	If the Principal Designer's appointment is to conclude before the end of the project, ensure that the Principal Contractor prepares the Health & Safety File					
28	Receive Health and Safety File from the Principal Designer or the Principal Contractor					
29	Establish appropriate location for storage of Health & Safety File (hard and/ or electronic copy)					

2.27 APPENDIX B - HEALTH AND SAFETY QUESTIONNAIRE FOR CONTRACTORS

Commissioning, Procurement & Compliance
Dacorum Borough Council
The Forum

**Marlowes
Hemel Hempstead
Hertfordshire
HP1 1DN**

SECTION A – CONTACT DETAILS

Information Required	Description of information required;.	
Name of legal entity or sole-trader	Unique name of legal entity or name of individual	
Registered office address	Address line 1	
	Address line 2	
	Address line 3	
	Town	
	County	
	Post code	
Contact details for enquiries	Name	
	Job title	
	e-mail	
	Telephone number	
	Mobile Number	
	Address line 1	
	Address line 2	
	Address line 3	
	Town	
	County	
	Post code	
Registration number if registered with Companies House or equivalent	Registration number with Companies House	
	Registration number with equivalent body	

SECTION B – HEALTH & SAFETY POLICIES, PROCEDURES AND ACCREDITATIONS

1) Are you a member of Safety Scheme in Procurement (SSIP) or accredited by one of its registered members? Yes/No

Please see a list of the members at <http://SSIP.org.uk/members/>.

If the answer is yes to the above question then please move to question 6.

- 2) Please provide a copy of your current Health & Safety Policy and Procedures.
- 3) Please advise who your competent person is within your organisation under Management of Health & Safety regulations 1992 (as amended in 1999).
- 4) Please advise how your Health & Safety policies and procedures are conveyed to your workforce?
- 5) If relevant then please advise of the how you will manage Health & Safety for your sub-contractors.
- 6) Please provide your accident statistics for the last three years (including Major and Minor).
- 7) Please provide details below of any prosecutions or enforcement notices (Improvement or Prohibition) you have been subject to within the last 3 years? If you have then please provide details of action taken to ensure the incident does not occur again.
- 8) Are you a member of Constructionline? Yes/No. If yes then please provide a copy of your registration number.

SECTION C – THE WORKS

- 1) Please provide details of the work that will be carried out for the Council?
- 2) Please advise of the value of the works?
- 3) Is the project notifiable to the HSE? Please note that for the project to be notifiable then it needs to last longer than 30 working days and have more than 20 workers working at the same time at any point on the project or exceed 500 person days.

YES/NO

- 4) Please provide a method statement of how the works will be carried out?
- 5) Please advise if any of the works will be subcontracted? If so then please provide details of the company and advise how much of the works will be subcontracted?

For internal use only

Signed off by Group Manager

2.28 APPENDIX C - APPOINTMENT OF THE PRINCIPAL CONTRACTOR* UNDER THE CDM REGULATIONS 2015

1. In accordance with the requirements of Regulation 5(1) of The Construction, Design and Management Regulations 2015, in my role of Client, on behalf of the Head of Property, I hereby appoint *name of organisation* as Principal Contractor for the *name of project and site location*.
2. Would you please acknowledge receipt of this Letter of Appointment.

Signed
Name of Project Manager / Service Manager

Copy to:
Appropriate Health and Safety Adviser

2.29 APPENDIX D - APPOINTMENT OF THE PRINCIPAL DESIGNER UNDER THE CDM REGULATIONS 2015

1. In accordance with the requirements of Regulation 5(1) of The Construction, Design and Management Regulations 2015, in my role of Client, on behalf of the Head of Property, I hereby appoint *name of organisation* as Principal Designer for the *name of project and site location*.
2. Would you please acknowledge receipt of this Letter of Appointment.

Signed
Name of Project Manager / Service Manager

Copy to:
Appropriate Health and Safety Adviser

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