



## **Gordon Crick – HM Inspector of Health and Safety, HSE**

### **Construction, Design and Management Regulations – revision April 2015**

Gordon Crick has been with the HSE since 1992. Prior to this time he had his own construction company for 8 years and so has a vast amount of experience from both perspectives. Over the last 5 years Gordon has been specialising in leadership, and the operational aspects of CDM and the question of co-ordination and competence.

The first part of Gordon's presentation was aimed at gaining an understanding of the changes the HSE are seeking to make through the revised Regulations and the reasoning behind the changes.

#### **Leadership**

Leadership in health and safety is seen as a massive issue. Gordon explained that they had identified two twin drivers as responsible for improving health and safety over the last 15 years: leadership from the top and involvement of the workforce from the bottom. Leadership starts way before establishment of the site; at the procurement stage. The aim is to try to achieve integration between health and safety professionals and procurement professionals at the earliest stages when working with clients.

Although not everyone in the audience was from a construction background, Gordon stated that CDM is not just for construction professionals. It is also significant to those substantial businesses who need to appoint contractors on a regular basis to undertake construction projects on their behalf, and who therefore need to know their responsibilities under the Regulations.

#### **Effective Management and Co-ordination**

Effective management and co-ordination of activities play a key part. However, the difference between management and leadership is often not well understood. Both are incredibly important. A well run project will likely be down to a high standard of management decisions at the planning stage and good leadership during the construction phase.

Not enough emphasis has been placed upon the importance of project co-ordination and getting people working together. This has been the function of the Principal Contractor since the role was established in 1994, a role which is seen as having contributed significantly to the success of projects during the construction phase. However, further improvement is required in the pre-construction phase ie co-ordination at the design and planning stages and this can be achieved through better management and better performance.

## Competence

Gordon reiterated that the HSE is 100% committed to promoting a competent construction workforce and competence remains a key part of their strategy. The fact that the 2007 revision to the CDM Regs attempted to cover both the competence of the individual worker and the competence of the organisation itself in one Regulation has led to confusion. To resolve this, the 2015 revision will refer to an individual's **skills, training, knowledge and experience** but an organisation's **capability**.

In Appendix 4 of the existing Regulations the emphasis is upon how to ensure an organisation is competent and includes a set of core criteria at the pre-qualification stage. In answer to a question from the audience, Gordon explained that it should not be implied that a company is competent because they have a SSIP (Safety Scheme in Procurement) accreditation, it simply means they have met the criteria in 12 core areas and understand their health and safety obligations. This caused some concern in the audience as to how to determine an organisation's competence if assessment schemes such as SSIP and CHAS (Contractors Health and Safety Assessment Scheme) do not give this assurance. It remains important for Clients to carry out more detailed checks at the award stage of procurement, what CDM 2007 refers to currently as the Stage 2 checks.

## Small Site Culture

This primarily relates to the domestic market. A quarter of all fatal accidents happen on sites that have a domestic client and the higher risks are often related to work on roofs or where ladders were in use. Behaviours and culture are very different on small sites and this is something the HSE is keen to address. The new Regulations will remove the earlier exemption with regard to domestic clients.

## Occupational Diseases

Occupational related diseases remain a priority and a challenge as it is 100 times more likely for workers to be affected by an occupational disease than to be killed on site.

Interestingly, health and safety is no longer a popular topic or a political vote winner but is now often seen as a barrier. However, as seen during the construction for the UK Olympics those companies who focused upon health and safety as a leading indicator did well; health and safety is not a bad indicator of commercial success.

**See BHSEA website on [www.bhsea.org.uk](http://www.bhsea.org.uk) for full details of the HSE presentation.**

## CDM Update

The HSE intend to produce a revised set of Regulations in April 2015. A consultation document has been widely

### CDM review – main changes

- Removal of explicit competence requirements
- Removal of exemption for domestic clients
- Amendment of the threshold for appointment of co-ordinators
- Embedding co-ordination function within the project team



publicised and suggestions have been taken on board.

Part 5 is now Part 4 but the technical standards will not change eg fire, explosion, drowning etc will remain the same.

There will now be a greater emphasis upon clients to take on greater responsibility and to monitor contractors and Principal Designers to ensure they comply with the Regulations. Clients paying for construction work are advised to obtain health and safety advice before appointing a project team, ensure they employ competent contractors and carefully consider what standards they want on that site and how the project will be built.

Gordon believes the HSE has simplified the Regulations; they flow better and there are fewer of them. The Regulations will be launched with an L Series guide to the law, a draft of which will be available in January 2015. Industry guides for each duty holder will be available with the Regulations, and the HSE is considering introduction of a slim-line ACOP at a later date.

### CDM review – guidance

- Legal commentary (L-Series)
  - Duty holder-specific guidance authored by CONIAC – aimed at smaller projects.
  - CONIAC guides – What Good looks Like and Scenarios
  - Revised HSE web pages
  - Development of template h&s plans – smartphone app?
- Post implementation:
- Simplified sign-posting ACOP



There will be suitable **transitional arrangements**, where appropriate, following the introduction of the regulations in April but, at this point, the detail is not known.

The new regulations will place more emphasis on the **skills of the Principal Designer** and anyone adopting this role should be suitably qualified with the knowledge, skills and experience to perform their

duties. **Contractors** will also need to ensure that their workforce is properly skilled, trained and also have the relevant knowledge and experience to undertake their role, and that they are supervised. The regulations make clear that the contractors are responsible for those workers under their control.

Every contract where there is more than one contractor on site will need a plan, and a **Principal Contractor** will be required in the construction phase. Co-ordination of the pre-construction phase will be the responsibility of the Principal Designer. There will be a requirement for co-ordination between the **Principal Contractor** and the **Principal Designer**.

The **notification threshold** is being raised and will now be 30 days where there are 20 or more people on a site at any one time, or 500 person days. As a consequence, fewer projects will need to be notified to the HSE.

### CDM 2015 – where are we now?



In August HSE Board agreed:

- the regulatory package
  - provisions concerning 'competence' and domestic clients
  - the provision of guidance package.
- 3 • slimmed down signposting ACOP



In the case of the **domestic market**, the responsibilities of the domestic client will be taken on by the Principal Contractor and, where a design is necessary, a Principal Designer.

George Allcock outlined a **domestic situation** where the householder was undertaking a bathroom refurbishment and asked how CDM would apply in this case. Gordon advised that the trades would agree amongst themselves who would take on the role of Principal Contractor for the overall management of the job. Gordon made clear that the Law does not permit the householder to act as either the Principal Contractor or Principal Designer. However, as is the case now, a domestic householder who “takes control of construction work” may find themselves with specific duties in Law arising from the Regulations.

The HSE will be producing a simple **template for contractors** working on domestic projects. Working in partnership, CITB are developing an App for use on mobile phones. Initially, this App will be available in English. (Consideration is being given to making this available in other languages to assist where foreign workers are on site.) These are intended as tools to be used in the planning stages on smaller projects.

Another area of concern is to ensure that individual card schemes only issue skills cards where the individual has the requisite level of knowledge, skills and experience.

## The Future of Construction

Gordon commented that there has been a significant change in culture over the last 10 years, particularly on larger sites and we are now enjoying a long term downward trend in fatal and major injuries. The HSE hope to see the industry continue to improve standards.

As their budgets continue to reduce the HSE will be withdrawing more and more to a regulatory role and have less capacity to advise to the level they have in the past. This means that the industry and health and safety professionals will need to be more pro-active to fill the void.

It is acknowledged that there needs to be a level of bureaucracy, a method of recording, but only in proportion to the risks involved. To this end the HSE is anxious to see some of the non value added activities involved in third party assessments and consultancy reduced. These activities have been costly but of little benefit in preventing accidents and ill health.

Asbestos is a very large part of Inspectors' work at the moment and they remain committed to controlling it. The HSE is now challenging senior management to improve standards.

In summary the HSE need to influence the industry to take on more responsibility and find solutions to problems themselves.

George brought the discussion to a conclusion by stating his personal viewpoint that it may be time for companies to take the initiative and responsibility for improving standards of safety and look less to the enforcing authority of the HSE to have all the answers but rather to simply provide the framework. The industry should ask themselves “how do we get the best result for our clients and how do we organise ourselves and our people to give a satisfactory outcome, on time, on cost, on quality and health and safety?”