CDM changes are still causing confusion

Twelve months on from their introduction, many construction companies are struggling to understand the new CDM Regulations 2015, says **Martin Cox**

IT IS JUST OVER A YEAR since the Construction (Design and Management) Regulations (CDM) 2015 came into force – but the evidence from site level is that they are still some way from being fully understood. At least, that is what CDM advisers are finding.

When compiling the changes for the 2015 Regulations, the Health & Safety Executive (HSE) followed the government's desire to cut away red tape.

The Approved Code of Practice (ACoP) from CDM 2007 – which had legal standing and gave great clarity, as well as examples of what was required – was revoked and replaced by a guidance document. Failure to follow the ACoP was not in itself an offence, but those prosecuted for a breach of health and safety law, who had not followed the code, were likely to be found at fault by the courts.

The new guidance incorporates loosely worded provisions allowing a variety of unclear interpretations. This has led to misunderstanding of responsibilities and confusion over exactly what is required.

In the past, if a project was of a sufficient size to require an F10 notification – meaning the HSE must be informed about the work – that was the trigger for the CDM coordinator (CDMC) to be appointed. But now, the trigger for the appointment of a principal designer (PD) is when there is likely to be more than one contractor on site. This seems to be frequently misunderstood by many clients, project managers and contractors, who cling to the F10 and length of the project.

The new CDM Regulations are proving particularly problematic for SME contractors, who may lack the infrastructure, resources or inclination to understand them. They often do not have the templates or understand what is expected of them in providing the principal contractor role.

For instance, it is not uncommon to see an SME contractor supply a construction phase plan which includes mention of the planning supervisor role. This was a feature of the 1994 regulations, which were superseded by the 2007 regulations, which replaced the planning supervisor with the CDMC role – itself dispensed with in CDM 2015. This gives an illustration of how out of touch some contractors can be with the regulatory changes.

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Additionally, SME construction companies often show a complete misunderstanding of their obligations regarding welfare provisions, fire safety plans and signing-in procedures.

There are also failings on the client side. Many are still not appointing a PD – the new requirement of CDM 2015 – at an early stage as required. Often, this role is not even considered until well into the planning stage or after a contractor is appointed.

One retail project was shut down recently by the HSE because of its CDM failings. The client was developing a shop fronting onto a busy high street. Most of the building had already been demolished, leaving just a four-storey front facade, supported by a wooden lintel with a single cast-iron support and buildings either side. A PD was appointed but clearly had not assessed how or if the buildings on either side were supported. The unsafe nature of the site led to an HSE prohibition notice.

Being a PD is not just a follow-on from being a CDMC. The role still requires health and safety knowledge and experience, but it also needs an understanding of technical issues such as structural designs, fire safety and building services. Because of this, the scope for a single person to carry out the role has been greatly reduced.

PDs need to impress upon clients the importance of the role and that it is not merely a throwaway appointment. Time, money and, potentially, lives can be saved if the PD and contractor are involved at an early enough stage to provide sound technical advice, prevent abortive work and stop unsafe working practices.

Some smaller contractors are still failing to come to terms with the requirements of CDM 2015

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