



HSE Frequently Asked Questions for designers under CDM 2007

Source: HSE Website (11/11) - <http://www.hse.gov.uk/construction/cdm/faq/designers.htm>

Am I a designer?

To be a designer you have to be in a trade, business, or undertaking that involves you in preparing designs. In the Regulations the term 'designer' relates to the function performed, rather than the profession or job title. So, for a construction project there could be 'traditional' designers, such as architects, structural engineers and civil engineers, a design and build contractor etc. Building services engineers/consultants and quantity surveyors etc are also designers. You will also be a designer if you prepare drawings, specifications and bills of quantities

Can you summarise what I should be doing as a designer?

The main designer duties under the Regulations are:

- to make sure you are competent for the job
- to check that clients are aware of their duties under the Regulations before you start work on the project
- when preparing the design, to avoid risks to those:
 - carrying out construction work
 - liable to be affected by the construction work
 - cleaning any window or transparent or translucent wall, ceiling or roof in or on the structure
 - maintaining permanent fixtures and fittings of the structure
 - using the structure as a workplace
- when preparing the design, to eliminate hazards that may give rise to risks, and reduce risks from any remaining hazards
- to perform these duties so far as is reasonably practicable, taking account of other relevant design considerations
- to take account of the Workplace (Health, Safety and Welfare) Regulations 1992
- to provide relevant information with the design about aspects of the design of the structure or its construction or maintenance, as will adequately assist clients, other designers and contractors to comply with their duties under the Regulations

Do designers have any additional duties if the project is notifiable?

Yes. Where the project is notifiable, designers should not start work (other than initial design work) unless a CDM co-ordinator has been appointed. They must also provide the CDM co-ordinator with any information about aspects of their design which will help them discharge their CDM 2007 duties, including information that may be needed for the health and safety file.

What is 'initial design work'?

'Initial design work' includes feasibility studies to enable the client to decide whether or not to proceed with the project, and any work necessary to identify the client's requirements or possible constraints on the development. Designers should encourage the appointment of a CDM co-ordinator at the earliest opportunity. The following examples illustrate what is beyond preliminary design, and hence that which should not be progressed in the absence of a CDM co-ordinator:

- Work within and beyond RIBA Stage C
- Work within and beyond CIC Consultant Contract 2006 Stage
- Work beyond OGC Gateway 1



- Work within and beyond ACE Agreement A(1) or B (1) 2002 Stage C3

What would be reasonable for me to do to make sure the client is aware of their duties under the CDM Regulations?

This depends on the knowledge and experience of the client, and also the complexities of the construction project. As a designer, you need to have a knowledge of client duties as they affect the project, so you can give the client proper advice. You need to let the client know you cannot begin work until you have made them aware of their duties. You also need to be reasonably satisfied that the client has understood the advice you have given.

I'm a bit confused about whether I should be using design risk assessments, design risk reviews, or some other means of documenting my risk procedures. Can you help me?

Your aim is to eliminate hazards from the design (so far as is reasonably practicable), and reduce risks from any remaining hazards – giving priority to collective protective measures before individual protective measures. The consideration of hazard and risk is integrated within the design process, so there is no need to carry out a separate 'design risk assessment'. A design review may be useful as a means of checking that the principal aim of eliminating hazards or reducing risks is achieved. A design practice or design team may choose to develop their own arrangements to make sure that designers are aware of their responsibility to eliminate hazards and reduce risks. The nature of these arrangements will depend on the size of the design practice/team and the type of work undertaken. In general, the production of design risk assessments that cover well-known and understood construction hazards should be avoided. The crucial information, ie that which covers unusual or complex hazards, is then much less likely to be missed and should be passed on to those that will need it in a format that is readily accessible to them.

I thought the Management of Health and Safety at Work Regulations 1999 (MHSWR) required risk assessments, so why don't I have to do specific design risk assessments?

Regulation 3(1) of MHSWR does require employers and the self-employed to make a suitable and sufficient assessment of risks to which their own employees are exposed at work, and also the risks arising out of, or in connection with, their work activity (eg designs) to which others may be exposed. The purpose of the risk assessment is to identify measures needed to comply with relevant health and safety law.

However, the risk assessment of a design should be integral to, and evolve with, the design work itself. Every design is different, and every design will require a degree of calculation, assessment, review and the proper exercise of judgement. If a designer is complying with regulation 11 of the CDM Regulations, then, as the design is worked through to completion, any hazards will be eliminated and residual risks (to those who may be affected by them) reduced, so far as is reasonably practicable. This is, in effect, the application of risk assessment to the design. There is no legal requirement for a risk assessment to be in writing or recorded, however, regulation 3(6)(a) of MHSWR does require the significant findings of the assessment to be recorded where an employer employs five or more people. In terms of design, the significant findings of the assessment will be the finished design, together with all relevant drawings and any accompanying notes.

Regulation 3(3) of MHSWR requires any assessment to be reviewed if no longer valid, or if there have been significant changes. Most design practices already do this by a systematic process of design review throughout the development of the design. Designers may choose to record the reasons why a design was modified or revised, so any subsequent designers are aware of what was decided.

Para 113 of the CDM 2007 ACoP, [L144](#) states that 'compliance with regulation 11 of CDM 2007 will usually be sufficient for designers to achieve compliance with regulations 3(1), (2), and (6) of MHSWR as they relate to the design of the structure'.

What information do I have to pass on and how should I do it?

You should inform others about project-specific significant residual risks. This should focus on risks that may not be obvious to those who use the design. One good way of communicating this information is using notes on drawings. If you are not sure what information should be passed on talk to the CDM co-ordinator or contractor about what they need to know.

Do designers have to eliminate all risks?

No. Designers should avoid hazards where possible, but there will be many situations where it is not possible to avoid all hazards. Where hazards cannot be avoided, the designer should reduce the risks associated with the hazard. The amount of effort put in to avoiding hazards and reducing risks should be proportionate to the degree of risk. They are not required to spend time, money and trouble on low-risk issues.

If I am a designer working for a domestic client, do I have to comply with the CDM Regulations?

Yes. You will need to comply with the duties placed on designers in Parts 1 and 2 of the Regulations. (There are no duties on designers in Part 4.)

I am a designer; can I also be the CDM co-ordinator for the project?

While there is no legal bar to designers carrying out the role of a CDM co-ordinator, it is essential that they have sufficient competence and knowledge of the legal duties of a CDM co-ordinator to carry out the role successfully. On larger projects, it may simply be unworkable for the designer to carry out both jobs because of its complexity.

As a designer, what can I do to achieve a successful working relationship with my CDM co-ordinator?

From experience, CDM co-ordinators can make a valuable contribution to the design process. Very early discussions to establish the framework of the relationship are essential. Understanding what it is that a CDM co-ordinator wants to achieve will also help you to ensure a successful working relationship.

As a designer, what do I have to do if the design is carried out in Britain for a project to be built abroad?

Design duties do not apply under the CDM 2007 Regulations where designs are prepared for construction work outside Britain.

Who has designer duties when the design is carried out abroad for a project in Britain?

Broadly, where the design has been prepared or modified outside Britain for use in construction works within the scope of CDM 2007, either the person who commissioned it or the client for the project will assume the designer duties (regulations 11 and 12).

Further guidance for designers

See the free download of the [ACoP](#), HSE publication [L144](#) (designers) and related [industry guidance](#).