

Construction, Design and Management Regulations 2007

Ground Investigation (GI) is categorised as construction when the ground is broken so the Construction, Design and Management Regulations 2007 (CDM) apply to the vast majority of GI projects. Unless all parties involved understand their role they may unwittingly take on responsibilities for which they are ill prepared.

Projects falling under the scope of CDM are separated into notifiable (projects that last more than 30 days or involve 500 person days of construction work) or non-notifiable. Different duty holders are introduced where sites are notifiable and these roles are summarised by the Health and Safety Commission as:

Clients (all sites) - A 'client' is anyone having construction or building work carried out as part of their business. This could be an individual, partnership or company and includes property developers or management companies for domestic properties.

CDM co-ordinators (notifiable sites only) - A 'CDM co-ordinator' (CDMC) has to be appointed to advise the client on health and safety issues during the design and planning phases of construction work.

Designers (all sites) - The term 'designer' has a broad meaning and relates to the function performed, rather than the profession or job title. Designers are those who, as part of their work, prepare design drawings, specifications, bills of quantities and the specification of articles and substances. This could include architects, engineers and quantity surveyors.

Principal contractors (notifiable sites only) - The principal contractor's role is to plan, manage and co-ordinate health and safety while construction work is being undertaken. The principal contractor is usually the main or managing contractor for the work.

Contractors (all sites) - A 'contractor' is a business who is involved in construction, alteration, maintenance or demolition work. This could involve building, civil engineering, mechanical, electrical, demolition and maintenance companies, partnerships and the self-employed.

Workers (all sites) - A 'worker' is anyone who carries out work during the construction, alteration, maintenance or demolition of a building or structure. A worker could be, for example, a plumber, electrician, scaffolder, painter, decorator, steel erector, as well as those supervising the work, such as foreman and chargehands.

So who is who on a Ground Investigation project?

Consultancies, partnerships, surveyors and similar - Although these parties may view themselves as the 'Client', in as much as they employ contractors to do the work, they are unlikely to be the 'Client' in terms of CDM where there is a strict definition. The Client under CDM is the person who will ultimately benefit from the project, so housing developers, local authorities, project originators on PFI contracts are all clients. Domestic clients carry no obligations under CDM.

Consultancies may take on design responsibilities where work involves the development of parts of the structure but the term 'Designer' is a responsibility rather than a role under CDM. Design activities would include foundation design, remediation barriers, grouting, pinning etc. Where design activity is carried out, considerable effort must be made to eliminate risk not just to the people who will use or occupy the structure, but also to those who must build it.

Where asked to act as Principal Contractor, care should be taken to consider competency in understanding and managing the risks involved with the GI phase of the construction project. Specific duties are imposed on Principal Contractors including the development of safety plans, site security, safety inductions and the coordination of all other contractors on site and must therefore be approached with care.

While on site all site activities such as site visits, supervision of bore-hole locations etc. must be done with reference to the Principal Contractor. On site, the Principal Contractor is in charge and carries overall responsibility for site safety.

In some cases the consultancy, surveyor, architect or similar may be appointed as the CDMC, responsible for the liaison and communication between parties. Safety of the project remains the responsibility of the Principal Contractor although the CDMC has a duty to advise the Client about any concerns involving other parties. The CDMC is not responsible for telling the Principal Contractor or Contractor how to do the work but for ensuring everyone carries out their obligations under CDM and all information is passed to the relevant parties.

It is suggested the same company or person remains responsible for the role of CDMC throughout the life of the project. For projects notified solely due to the length of the geotechnical phase, where there is no further anticipated construction work, the consultancy or similar may be competent to act as the CDMC. Competency must be reassessed throughout the project, where it progresses beyond GI.

Contractors - Those on site carrying out the work are classed as contractors. Where there is only one contractor on site, such as a drilling contractor, these are classed as the main contractor or on notifiable sites, the Principal Contractor.

On larger GI projects, where multiple contractors are on site at one time and the project becomes notifiable, one contractor must be the Principal Contractor. This should be stated on the paperwork submitted to the Health and Safety Executive and they must agree to carry out the duties under CDM.

Contractors must be competent to carry out their work and where they are appointed Principal Contractor they must ensure they are competent to discharge these additional duties. In most cases a GI project will be notifiable from the start and the drilling contractor or ground investigation crews may find themselves acting as Principal Contractors by virtue of being the only ones on site. This imposes little additional responsibility from those under their statutory obligations and most should find little difficulty in discharging these duties but being given this explicit role under CDM can be intimidating.

In some cases, again where the project becomes notified solely due to the length of the geotechnical phase, there is little to stop a contractor acting as CDMC but the role must be clearly understood.

Where a contractor is responsible for designing or developing parts of a structure, they may carry responsibilities as a designer. For GI projects, this is unlikely unless something is to be left as part of a structure such as a pile or a remediation barrier. Although as a contractor there is a duty to eliminate, as far as is reasonably practicable, the risk to those involved in the work, this is not design as interpreted by CDM. As a result a contractor planning the location of boreholes is not a designer, but a piling contractor is.

Further reading:

Health and Safety Commission - L144 Construction (Design and Management) Regulations 2007

Health and Safety Executive - L21 Management of Health and Safety at Work 1999

Health and Safety Executive - INDG411 A Quick Guide for Clients on the Construction (Design and Management) Regulations 2007 - <http://www.hse.gov.uk/pubns/indg411.pdf>

<http://www.hse.gov.uk/construction/cdm.htm>