

## Meeting Record

<b>Date</b>	9 <sup>th</sup> March 2020 (Mon)
<b>Venue</b>	AHMM, Morelands, 5-23 Old Street, EC1V 9HL
<b>Chair</b>	Paul Bussey
<b>Rev</b>	01 (Typo corrected)

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<b>Attendees</b>	<b>Name</b>	<b>Initial</b>	<b>Organisation</b>
	Paul Bussey (chair)	PB	AHMM
	Gavin Bull	GB	HSE
	Peter Waxman	PW	Multiplex
	Gary Burden	GB	PRP Architects
	Peter Hegarty	PH	Chapman Taylor
	Jeffrey Tribich	JT	Malcolm Hollis
	George Poppe	GP	Sheppard Robson
	Roland Reinardy	RR	Hawkins Brown
	Isabel Lorenzo	IL	Levitt Bernstein
	Aamir Shahzad	AS	Currie Brown
	Mustafa Hussain	MH	Currie Brown
	Richard Hartley	RH	Landlease
	Ian Wood	IW	Scott Brownrigg
	David Mulligan	DM	Network
	James Taylor	JT	Nicholas Hare
	Graham Boyce	GB	Barton Willmore
	Dominika Kubienie	DK	AHMM
	Sneha Holis	SD	AHMM
	Goh Ong	GO	AHMM

**Speaker** Paul Bussey, AHMM

**Details** Paul Bussey, the Chair of DIOHAS, introduce [CONIAN](#) – The Construction Industry Advisory Network – and draft FAQ on the CDM Regulation.

## Keeping Pace with Change Working Group

### Draft Report to CONIAN and HSE.

#### Frequently Asked Questions ( HSE asked to confirm responses)

**1. Is the Pre-Construction Phase the period of time before start on site?**

No. It is “the period of time during which design or preparatory work is carried out for a project and may (often) continue during the construction stage”

**2. Whom is the most appropriate organisation to take on the Principal Designer function and what is the key role?**

“ A designer with control over the pre-construction phase “ ( Reg 5(1),  
However “ The PD must plan, manage and monitor the pre-construction phase **AND** coordinate matters relating to health and safety during the pre-construction phase to ensure , so far as reasonably practicable, the project is carried out without risks to health and safety”(Reg 11.1).

**3. Can a client be principal designer?**

Yes, providing they have the skills, knowledge and experience and time and resources to plan manage and monitor the project and coordinate health and safety with the design team during the Pre-Construction Phase.

**4. Can a client be a designer?**

Yes if their decisions alters a design or arranges for, or instructing, others to do this .

**5. Must a Principal Designer & Designer apply the Principles of Prevention?**

Yes. “When preparing or modifying designs , a designer must take account of the general principles of prevention, and the pre-construction information, with the aim as far as reasonably practicable, of eliminating foreseeable risks. Where this is not possible they must take reasonably practicable steps to reduce the risks or control them through the design process and provide information about the remaining risks to other duty holders” ( Note 81 L153)

**6. How far should the Design Team go when mitigating risks?**

So far as is “reasonably practicable” – ie “balancing the level of risk against the measures needed to control the real risk in terms of money, time or trouble. However you do not need to take action if it would be grossly disproportionate to the level of risk” ( Glossary L153) ie. reduce foreseeable risks to an acceptable level

**7. Do Health and Safety risks take priority over other issues?**

No. Health and safety risks need to be considered alongside other factors that influence the design such as cost, fitness for purpose, aesthetics, environmental impact” etc. ( Note 83 L153)

**8. Do Designers and Principal designer have to identify all risks?**

No. “Identifying insignificant risks is not an effective way of alerting other duty holders to important design issues they need to know about. Designers should be able to demonstrate they have addressed only significant risks” ( Note 102, L153)

**9. As principal designer do I have to approve contractor risk assessments / method statements?**

No this is a principal contractor duty however you could pass comment without prejudice if you are happy to do so.

**10. As principal designer do I have to approve construction phase plan?**

No this is a client duty; however, as principal designer you may wish to receive a copy to ensure it reflects pertinent preconstruction information and any significant risks.

**11. As principal designer, do I have to send F10 notification to the HSE?**

No - this is a client duty ; however, as principal designer, you may wish to do this as it is relatively straight forward. Also the client may ask you to complete and issue this on their behalf . It is essential for the client to be made aware of and contribute to the contents of the F10

Why are we saying this?

**12. As architect should I offer to take on client duties on a domestic project?**

If there is no written agreement with the domestic client for the architect to take on the Client duties, then the HSE will only view the Principal Contractor as having taken on these obligations, and not the architect.

However, if requested by the client to undertake these duties, you may wish to do so.

**13. As architect on a Domestic Project, does the Principal Designer role default to me?**

No. The Principal designer must be appointed by the Client in writing, and it makes sense for the role to "fall to" the lead designer/architect. However if the architect does not have sufficient SKE they can refuse the duty and recommend an external PD, but on most small domestic projects this should be within the capabilities of qualified architects.

PD does not have to be appointed in writing on a domestic.

**14. As architect appointed as principal designer does my appointment end when works start on site?**

As part of the CDM Strategy Brief it should be agreed at the outset and stated whether the design will need further development during the construction stage, and if so will your role as principal designer be for the duration of the project , or will the client want to transfer the duties to the principal contractor at some point, if they have sufficient SKE to deliver the role..

**15. As principal designer do I have a duty to report H&S concerns when visiting site?**

No there is no specific legal duty on designers or principal designers. However, you should report any H&S concerns you may have as a general duty of care?

**16. As architect appointed as principal designer does my appointment end when works start on site?**

As part of the CDM Strategy Brief it should be agreed at the outset and stated whether the design will need further development during the construction stage, and if so will your role as principal designer be for the duration of the project , or will the client want to transfer the duties to the principal contractor at some point, if they have sufficient SKE to deliver the role..

**17. As principal designer do I have a duty to report H&S concerns when visiting site?**

No there is no specific legal duty on designers or principal designers. However, you should report any H&S concerns you may have as a general duty of care?

**18. What is the PD role during the Construction Stage?**

The PD, during the construction stage has to liaise with the principal contractor for as long as his appointment lasts, or whilst design decisions are still being made . For example, on such issues as design development, changes to designs, discovery on site, and the implications these changes may have for managing health and safety. Liaison also includes the preparation of the Health and safety File for handover at the end of the project.

**19. Can there be multiple PD's on a large multiple building project with one client and one PC?**

Yes. It is sensible for the individual architects to be Principal Designers for their buildings providing they liaise with the other PD's adjacent and any interfaces with the Public Realm PD. All PD's can then liaise with the single client and PC. There is nothing in the CDM 2015 Regulations that states there must be one PD on a multiple building project. However it would make sense for one Architect/PD to compile the Site Wide Pre-Construction information and analysis for distribution to the entire team of consultants. It might be possible for the Contractor to become the overall project PD during the construction phase providing all, design is completed or they have in-house design skills to complete the design.

**20. Can there be multiple Principal Contractors on one project?**

Not normally. Unless each building is physically segregated off from each other there must be one PC in control of the whole site. Alternatively it must be clear who is in control of any part of the site at any time at any given time. Where it is not possible for one contractor to be in overall control, those PC's involved must:-

- a) Cooperate with each other
- b) Coordinate their work
- c) Take account of any shared interfaces between activities of each project (eg shared traffic routes) (Note 117 –L153) TP to comment

**21. Can Principal Designer Duties be sub-let to independent CDM- Advisers or Principal Designer Advisers?**

No. The "Designer in control of the pre-construction phase" must be the Principal Designer and should have the appropriate CDM knowledge for the relevant project type. This is fundamental to being an architectural designer taking CDM into consideration with all the other design factors. Designers need to develop the proportionate skills to provide holistic design skills or engage internal advisers to assist with the process and be available at all reasonable times .

**22. How far do PD's have to consider the integration of Temporary Works into projects?** Whilst CDM 2015 refers to temporary works as one area of a PD's concern it does not expect the PD to do the full design and calculations, which is an expert skill. The PD needs to ensure that there is a definite need for these often dangerous works, that a suitable structural brief is established, and that the PC or other contractors have suitable skills to design and implement these works. The PD should also consider the interface of these works with the whole site logistics of the project eg. Façade retention works adjacent to deep basement excavations and on major retail streets in a city location.

**PREVIOUS DRAFT FROM PAUL BUSSEY**

**Frequently Asked Questions ( HSE asked to confirm responses)**

**1. Is the Pre-Construction Phase the period of time before start on site?**

No. It is “the period of time during which design or preparatory work is carried out for a project and may (often) continue during the construction stage”

**2. Whom is the most appropriate organisation to take on the Principal Designer function and what is the key role?**

“ A designer with control over the pre-construction phase “ ( Reg 5(1),  
However “ The PD must plan, manage and monitor the pre-construction phase **AND** coordinate matters relating to health and safety during the pre-construction phase to ensure , so far as reasonably practicable, the project is carried out without risks to health and safety”(Reg 11.1).  
Therefore on architectural projects it makes sense that the Lead Architect is the PD. This may be different on large civils or infrastructure works .

**3. Can a client be principal designer?**

Yes providing they have the skills, knowledge and experience and time and resources to plan manage and monitor the project and coordinate health and safety with the design team during the Pre-Construction Phase.

**4. Can a client be a designer?**

Yes if their decisions alter a design or arranges for, or instructing, others to do this . However as clients, they are not dutyholder designers on the project unless they actively design elements of the scheme.

**5. Must a Principal Designer & Designer apply the Principles of Prevention?**

Yes. “When preparing or modifying designs , a designer must take account of the general principles of prevention, and the pre-construction information, with the aim as far as reasonably practicable, of eliminating foreseeable risks. Where this is not possible they must take reasonably practicable steps to reduce the risks or control them through the design process and provide information about the remaining risks to other dutyholders” ( Note 81 L153)

**6. How far should a Designer or Principal Designer and Design Team go when mitigating risks?**

So far as is “reasonably practicable” – ie “balancing the level of risk against the measures needed to control the real risk in terms of money, time or trouble. However you do not need to take action if it would be grossly disproportionate to the level of risk” ( Glossary L153)

**7. Do Health and Safety risks take priority over other issues?**

No. Health and safety risks need to be considered alongside other factors that influence the design such as cost, fitness for purpose, aesthetics, environmental impact” etc. ( Note 83 L153)

**8. Do Designers and Principal designer have to identify all risks?**

No. “Identifying insignificant risks is not an effective way of alerting other dutyholders to important design issues they need to know about. Designers should be able to demonstrate they have addressed only significant risks” ( Note 102, L153)

**9. As principal designer do I have to approve contractor risk assessments / method statements?**

No this is a principal contractor duty however you could pass comment without prejudice if you are happy to do so. It is not generally necessary for PD’s to be issued with risk assessments or method statements except if specifically requested and/or included in the Construction Phase Plan where’re significant CDM risk/issues have been identified.

**10. As principal designer do I have to approve construction phase plan?**

No this is a client duty however as principal designer you may wish to receive a copy. The PD does not have a duty to approve the Construction Phase Plan but should check to confirm if it reflects the Significant CDM Risk/Issues identified at Tender/Contract stages

**11. As principal designer do I have to send F10 notification to the HSE?**

No this is a client duty however as principal designer you may wish to do this as it is relatively straight forward. Also the client may ask you to complete and issue this on their behalf . It is good for the client to be made aware of and contribute to the contents of the F10

**12. Should I include work at height as a significant risk?**

Significant risks not necessarily those that involve the greatest risks, but those (including health risks) that are

- not likely to be obvious,
- unusual or complex risks that are more likely to be missed or misunderstood by contractors or others on the project rather than risks that are well known and understood,
- likely to be difficult to manage effectively.
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The definition of 'work at height' is so broad it can encompass most of the activities on a typical building project.

The focus should be on those design elements where the risks are unusual or complex as above eg. Window cleaning on high buildings over 2 stories, access to atria roofs, roof access where edge protection is unavailable for other reasons.

**13. As principal designer how do I assist the client in assessing others competence?**

Ask whether other designers or prospective principal contractors are members of recognised professional bodies,SSIP accredited or use PAS 91 to evaluate whether they have the required skills, knowledge, training and experience

**14. As architect should I offer to take on client duties on a domestic project?**

A "naive" domestic client cannot take on the CDM duties as they are unlikely to have the SKE. As architect you need to make them aware that client duties need to be carried out. These are reasonably straightforward and an architect can deliver these at design or all stages if appointed in writing.

If there is no written agreement with the domestic client for the architect to take on the Client duties, then the HSE will only view the Principal Contractor as having taken on these obligations, and not the architect.

However, if requested by the client to undertake these duties, you may wish to do so. It is not unreasonable to charge a proportionate fee for these duties, as time and resources are required.

**15. As architect on a Domestic Project, does the Principal Designer role default to me?**

No. The Principal designer must be appointed by the Client in writing, and it makes sense for the role to "fall to" the lead designer/architect. However if the architect does not have sufficient SKE they can refuse the duty and recommend an external PD, but on most small domestic projects this should be within the capabilities of qualified architects.

**16. As architect appointed as principal designer does my appointment end when works start on site?**

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