

Meeting Record

Date	26 th April 2021 (Mon), 16:30-18:00
Venue	Video conference using Microsoft Teams
Chair	Paul Bussey
Author	-

Attendees	Name	Initial	Organisation
1	Paul Bussey (chair)	PB	AHMM
2	Sarah Susman	SS	Scott Brownrigg
3	Liesl Dommissie	LD	Scott Brownrigg
4	Oliver Thomas	OT	Scott Brownrigg
5	Mark Reynolds	MR	Boundary Concepts Limited
6	Aissam Nehari	AN	Faithful + Gould
7	Allan Binns	AB	Ryder Architecture
8	Angus McGhie	AM	Jack Fisher Partnership
9	Chris Ottaway	CO	Ottaway and Associates
10	David Crawforth	DC	Ottaway and Associates
11	Steve Copping	SC	Arcadis
12	Pav Singh	PS	Arcadis
13	Eleanor Eaton	EE	SSIP
14	David Mulligan	DM	Network
15	Graham Boyce	GB	Barton Willmore
16	Lee Harvey	LH	Redline Fire Safety Consultancy
17	Ken Pike	KP	Pike Associates
18	Craig Mcakenzie	CM	Argyll and Bute Council
19	Mark Skinner	MS	Hawkins Brown
20	Martin Thrope	MT	Mott MacDonald
21	Philip Cantrell	PC	Mott MacDonald
22	Angela Kwan	AK	ArchiTeh
23	Jim Fifield	JF	Veretec
24	Peter Hegarty	PH	Chapman Taylor
25	Philp Willis	PW	Jackson Coles
26	Richard Price	RP	Sweco
27	Richard Collis	RC	Feilden Clegg Bradley Studios
28	Robert Franklin	RF	Robinson & Hall LLP
29	Alain Speed	AS	PRP Architects
30	Gary Burden	GB	PRP Architects
31	Jeffrey Tribich	JT	Tribich Consultancy
32	Neil Molloy	NM	Levitt Bernstein
33	Sam Amer	SA	ARK
34	Santiago Moreno	SM	SPPARC Studio
35	Sneha Holis	SH	AHMM
36	Rosie Ashbourne	RA	AHMM
37	Goh Ong	GO	AHMM

NOTE ON COVID-19: Since 23rd March 2020, all DIOHAS meetings will take place over video conference.

Speaker Paul Bussey host a session where DIOHAS delegates share their views on the Principal Designer role under the soon-to-be-published Building Safety Bill.

Attached is a statement titled "The Principal Designer role under CDM 2015 & the Building Safety Bill 2020 (26th Feb 2021)", prepared by Paul Bussey and the RIBA Expert Advisory Group for the Construction Industry Council (CIC) Building Safety Committee.

Details Link to the recording of the meeting:
<https://youtu.be/v-I5xZ4YUDM>

Statement to the Construction Industry Council (CIC) Building Safety Committee

on

“The Principal Designer role under CDM 2015 & the Building Safety Bill 2020”

by

Paul Bussey RIBA, RMaPS, FIFireE, FIIRSM

Vice Chair of CIC Health & Safety Committee

RIBA Fire Expert Advisory Group

AHMM (Architects) Fire and CDM Technical Lead

The “Principal Designer”

The Principal Designer (PD) title has been variously applied to a role, duty, responsibility, function, person or company since its introduction in the Construction (Design & Management) Regulations 2015 (CDM 2015) and has subsequently been the subject of industrywide discussion, dispute, misunderstanding and a major disconnect amongst many observers, duty-holders and stakeholders.

Aim of this Report

The purpose of this statement is to explain the background to these complex misunderstandings or misinterpretations so the PD activity can be properly understood with its proposed adoption for Structural and Fire (in use) issues under the Building Safety Bill.

The Background to the Principal Designer function

At the introduction of the CDM Regulations in **1994 (CDM 1994)** as a requirement of the 1992 European (TMCS) Directive a “coordinator for safety & health matters at the project preparation (design) and execution (construction) stages of a project” was required. For the design stages this was originally interpreted in the UK as a “Planning Supervisor” (PS) and rather than it being a process or activity carried out by an existing project team member with control over the design development as intended, it became an additional consultancy role. Since the CDM Regulations are regulated by the Health and Safety Executive and is largely prosecuted under the Health and Safety at Work Act 1974 it is assumed by some lawyers and others to relate to solely to “safety and health” issue . This has encouraged “Health and Safety” (H&S) related institutions and practitioners to interpret this as an opportunity to embed their “PS” members into construction project teams of all types from infrastructure to architecture. This has resulted in a whole layer of additional safety and health (S&H) practitioners asserting an unintentional authority, in the form of personnel with often limited knowledge or control of highly complex design processes during construction projects.

With regard to professional designers and project teams, the imposition on them of designer duties by PS activities was often seen as an additional and unnecessary time and resource to add to an already highly complicated design process. The common perception that CDM really only related to the Principal Contractors’ (PC) on- site activities and not a “lead designer” tended to encourage clients & designers to appoint H&S practitioners into the PS role, or as “CDM-Advisers” in order to be seen to deliver the PS role, without really embracing it fully in the design stages. The appointment of PC’s during the construction stage as PS’s further perpetuated the myth that it was a PC issue, even when complex design change or development was occurring at these construction stages. This misapplied arrangement has largely persisted in the industry up to the present day via the introduction of **the CDM Coordinator (CDM-C) in the CDM 2007** regulations and the PD under CDM 2015.

The introduction of the CDM-C was intended to embed CDM thinking into projects at early stages, discourage the burgeoning but unnecessary bureaucracy and make CDM a prime consideration from early design development stages. However the term CDM-C was further recognised as a person rather than an activity and the PS consultant was now renamed with coordination duties as the CDM-C. Inevitably this became a paid “policing” role to keep the client and design team out of court but expecting all the actual CDM activities to be carried out by the other design participants but not attracting additional fees or time. This simply encouraged more unnecessary bureaucracy as a form of “malicious compliance” and a huge associated competence assessment industry placing further unnecessarily high and time consuming expectations on all design stakeholders.

CDM 2015 was therefore introduced to rid the industry of these unnecessarily onerous practices, and embed S&H into the design process by replacing the coordinator with a “Principal Designer” (PD) during the pre-construction stages (design stages). This was intended to be a direct reflection of the “Principal Contractor” (PC) role during the construction stages. However, the PC is an organisational function whereas the PD was again perceived as an individual. Furthermore the PC duties include more “absolute duties” to control S&H issues on all construction activities whereas the PD activities are predominantly qualified duties to control S&H at design stages by coordination of the entire design team “so far as is reasonably practicable” and to a “tolerable” level in relation to all other design issues. The subtlety of this difference has led to a continuation of the industry disconnect, expecting designers to design out all S&H “risks” and provide the “most safe solution” to every construction activity. This misinterpretation has led designers and their Professional Indemnity insurers, to try to off-load these perceived as highly onerous responsibilities to H&S practitioners known as PD or CDM advisers. This completely contradicts the “qualified” intentions of the PD function and rather than embedding these activities into the design has further encouraged an industry of external “PD’s” with little if any “control” or understanding of the full project complexities.

In parallel there are also misunderstandings by **clients** who often rely entirely upon external client project managers who primarily focus on cost and programme and not sufficiently on compliance and quality. Opportunities are therefore missed by not having a CDM strategy brief and early appointments or contracts that include the proper integration of CDM from the start of a project, not as an after-thought. This leaves these CDM & quality issues until far too late. It puts all the responsibilities onto the PC, including the PD role during construction, such that design and quality is perceived to be outsourced contractually, but actually does not take place effectively or at all. This results in an unacceptable, but common situation with poor regulatory design, high potential for accidents and defective works issues that need to be rectified as post contractual disputes after handover.

There is of course some requirement for PD’s and designers to extend their knowledge of S&H issues and to understand how they are integrated with all other project issues whether “risks or benefits” which they need to consider and in a proportionate manner. This process is known as Design Risk Management and embraces the design integration of all “significant CDM issues” such as site analysis, environmental, societal, conservation, inclusivity, future maintenance, commercial, financial, aesthetic and constructional etc. These multi- factorial “CDM design issues” are the most significant considerations required at design stages in contrast to the relatively single-dimensional “CDM Construction issues” whereby operatives are put to work. There is however, also a need to encourage a better liaison process between PD’s and PC’s to ensure that all the project relevant issues are considered adequately before the actual construction activities are instructed.

The Building Safety Bill

This brings us to the PD activity being proposed under the Building Safety Bill. The further integration of structural issues and the new integration of fire in-use considerations can sit comfortably with the current, but widely misunderstood, design risk management process. On architectural projects, due to their complexity, this PD function is best coordinated by the architectural lead in control of the design stages, including design during the construction stages. There is of course still a need for Structural & Fire Engineers on the project team, and there might also be a need for some specialist advice to the client, PD & PC where certain S&H expertise is missing can be provided by H&S practitioners, Fire Risk assessors and Site Supervision.

The Building Safety Bill will require everyone to improve their skills, knowledge, training, behaviours and experience in collaboration with their professional institutes and colleagues in order embrace the future proposals. The RIBA are well progressed with this process to meet the new requirements. This does not however require the PD to be an expert in any of the disciplines that constitute the design team, except as a lead designer and PD. The PD will need the ability to understand, discuss and coordinate all the others to encourage proportionate design development much like a surgeon with the operating team, or the conductor of an orchestra with the individual musicians. If this Design Risk Management process is adopted in the way intended in CDM 1994 and in subsequent versions rather than the commonly misapplied manner, there is no reason why the current Building Safety Bill proposals cannot contribute to the other successes of the CDM Regulations including a huge reduction in injuries and deaths since 1994.