

# Construction update

Newsletter Issue 3 2015



## Welcome to issue 3 of the 2015 QBE Construction Newsletter

It's been six months since the introduction of CDM 2015 and the transitional period allowing projects to adapt to the new rules ended on the 6th October 2015. Companies need to make sure they are aware of their responsibilities so we review the changes that are now in force.

In a bid to improve cyclist and pedestrian safety within the borders of London HGVs without specific safety provisions have now been banned from the city's roads.

The HSE and HSL have produced a research report into the use of seatbelts in forward tipping trucks on site, with some quite stark messages; this will undoubtedly be an area the HSE will be looking at on any future site inspections.

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### The end of CDM 2015 transitional provisions

6th October 2015 marked the expiry end of the transitional provisions of the new CDM regulations and the expiry of the transitional provisions that ran for the initial six months following the introduction of the regulations in April 2015.

The regulations now apply to all construction projects, including small and domestic projects.

The role of CDM co-ordinator has now gone and has been replaced by the 'principal designer'.

It is important to note that the CDM co-ordinator has not simply been re-named and that a person who may previously have acted as CDM co-ordinator may now not be eligible to be a principal designer.

A principal designer must be a 'designer' i.e. a person who (a) prepares or modifies a design or (b) arranges for, or instructs, any person under their control to do so relating to a structure, or to a product or mechanical or electrical system for a particular structure.

The transitional provisions allowed an existing CDM co-ordinator, appointed before 6th April 2015, to continue this role until 6th October 2015 without the need for a principal designer to be appointed. If the project continues beyond 6th October 2015 a principal designer must be appointed in writing by that date.

If the client has not appointed a principal designer when the transitional provisions end, they will automatically take on the responsibility of principal designer (including responsibility for the planning, managing and pre-construction phase, co-ordinating health and safety, liaising with the principal contractor, preparing the health and safety file and so forth).

The HSE and the Chartered Institution of Building Services Engineers (CIBSE), suggest that if the project is near completion and the client believes that all the design work has been completed, the client may choose not to appoint a principal designer, albeit legally they will effectively take on this role themselves.

We understand that some designers chosen to be principal designers opt to subcontract those previously appointed as a CDM co-ordinators to assist them in discharging their duties. This arrangement is perfectly legal however the responsibility as principal designer remains with the principal designer.



A recent joint investigation by the BBC and Newsnight has revealed widespread rigging of exam results in CSCS test centres around the country, the CITB set out what they are doing to deal with this increasing threat.

### **Allegations of CSCS test centres rigging exam results**

The flagship CSCS card scheme for certifying builders has been called into question after a string of test centres were caught rigging health and safety exams.

A joint BBC London/Newsnight investigation has revealed widespread, organised cheating, allowing untrained builders on to dangerous sites.

Construction Skills Certification Scheme cards, launched by the industry in 1995, are seen as a benchmark with nine of the UK's 10 biggest construction companies demanding them, as do Crossrail and Heathrow.

However numerous test centres appear to be offering guaranteed passes for cash, enabling workers lacking English to obtain qualifications.

Wep HSE, in Ealing, West London and Future Training 4 Jobs in Ilford East London, were among three centres exposed by undercover reporters.

In one centre a director, read exam answers from a big screen, instructing candidates: "Follow me on screen, guys. I'm going to shout the correct answer, you just click. We're going to make a couple of mistakes - what I don't want is everyone making the same mistake."

Confronted with the evidence, the director, who has won a prestigious health and safety award, made no comment.

At another centre a BBC investigator was issued with a supervisor qualification for £450. The company concerned says their employee acted alone and insists it provides quality training and works hard to uphold standards.

The BBC were able to use a CSCS card acquired with fraudulent qualifications to get offers of work at building sites, a school - and even a power station.

A BBC Freedom of Information request to the Construction Industry Training Board (CITB), which administers the scheme, revealed steeply rising cases of CSCS fraud.

There were 96 reports in 2012, some 264 in 2013 - and 311 last year.

It is estimated that 14% of the UK's construction workers are from abroad - approximately 228,000 people.

Reports by Loughborough University and Irwin Mitchell solicitors have warned that communication difficulties put them at higher risk of accidents.

T&D Glazing and Installation, in east London, employs 200 people. Managing director Toni Timis estimates 20% applying to work there have fraudulent CSCS cards.

He said: "Out of 100 people, half will speak English, so they have no problem with exams. Of the other half, 15 or 20 pay someone [extra] rather than take exams. It's easy to spot them."

One Romanian labourer, speaking anonymously, told the BBC it was open knowledge that CSCS qualifications could be bought.

He said: "People don't care about it being illegal - they just get a job, make some money. In the future, they'll kill someone."

A CITB survey of 419 construction workers responsible for checking CSCS cards indicated 1% saw a fraudulent card every day.

In London, one-third had seen a fraudulent card.

Carl Rhymer, of the CITB, said: "CITB is aware of the problem card fraud poses, which is why we've taken a series of measures to tackle this head on.

"We doubled our spend on fraud investigations, which led to five centres being shut down - with eight other centres under investigation.

"We're accelerating plans to install mandatory CCTV in all centres to monitor for fraudulent activity, and have launched spot-checks.

"Our intelligence suggests card fraud is focused in a small minority of the 544 testing centres."

Graham Wren, the scheme's chief executive, said: "CSCS takes fraudulent activity extremely seriously, and it's essential that steps are taken to prevent it.

"CSCS relies on awarding organisations to verify an individual has achieved required qualifications before CSCS issues the appropriate card.

"CSCS is confident the vast majority of cards issued are a result of a legitimate qualification."

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## HSE calls on Construction Industry to enforce seatbelt use on sites

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The Health & Safety Laboratory (HSL) has recently completed research (Research Report 1066) on behalf of the HSE into the question of why operators of forward tipping trucks often fail to wear their seatbelts.

HSE accident statistics show that between 2005 and 2010 there were 5 fatalities arising from forward tipping dumpers (FTDs) rolling over. On each occasion it was discovered that the operator was not wearing a seatbelt. To the best of HSE's knowledge, there have been no reported fatalities in incidents where a FTD has overturned and the operator has been wearing their seat belt.

Reasons identified why operators of FTDs may not wear their seat belts include:

- Low levels of trust in the combined seat belt/roll over protection system (ROPS)
- Wearing the seat belt is seen as inconvenient and uncomfortable
- The basic nature of the typical seat belt design results in belts becoming dirty and easily damaged.

The report calls on manufacturers to improve the wearing of seatbelts by

making changes to aspects of the design of FTDs including in priority order:

- Fitting integral cabs
- Changing the seat/ROPS design to allow the fitting of three or four point seat restraint systems, quipped with sophisticated interlock/immobilisation technology
- Fitting robust, retractable lap seat belts instead of the more damage susceptible non-retractable variety and also equipped with sophisticated interlock/immobilisation technology
- involve end-users in the design process.

Whilst initially more costly companies can help drive change by actively encouraging the use of higher specification FTD designs on site. FTDs are operated in all weather conditions all year round. Current designs take little account of operator comfort and welfare and this is likely to impact negatively on productivity and safety.

Construction companies could do more at site level to monitor and enforce the wearing of seat-belts to drive a behavioural change, perhaps by including monitoring as part of supervisors duties or within a daily safety check. The condition of seatbelts should also be recorded in any pre-use checks carried out by operators.

### Unsafe HGV's banned in London

Heavy goods vehicles (HGVs) without suitable safety equipment to protect cyclists and pedestrians have been banned in Greater London as part of Britain's first Safer Lorry Scheme, which came into effect on 1 September 2015.

Vehicles of more than 3.5 tonnes entering London must be fitted with sideguards to protect cyclists from being dragged under the wheels in the event of a collision, along with Class V and Class VI mirrors to give the driver a better view of cyclists and pedestrians. This includes HGVs, which are disproportionately involved in fatal collisions with cyclists and pedestrians in the capital. Seven of the eight cyclist deaths so far in London in 2015 have involved HGVs.

The scheme operates across London, 24 hours a day, seven days a week and it is enforced by the Metropolitan Police Service, City of London Police and the Driver and Vehicle Standards Agency.

Drivers found to be in charge of a non-compliant vehicle may be issued with a £50 Fixed Penalty Notice. The maximum fine for each breach of the ban will be £1,000. Repeat offenders may also be referred to the relevant traffic commissioner, who is responsible for the licensing and regulation of HGV operators.

For information on how to improve your fleet safety we would encourage you to contact your Motor Fleet Insurer and/or **Construction Logistics and Cyclist Safety (CLOCS)**. CLOCS is a scheme by the construction industry to improve road safety and protect vulnerable road users.

CLOCS now has over 17,500 member vehicles registered which are fitted with safety equipment including sideguards, mirrors, camera and sensor systems and left-turn audible alarms, exceeding the requirements of the Safer Lorry Scheme.

### Selecting the correct PPE

Those with duties under CDM 2015, including workers, contractors, designers and clients, all have a legal obligation to consider and plan for safety including identifying, coordinating, eliminating, reducing or controlling foreseeable risks that may arise during every aspect of the design and construction, as well as the maintenance and use of a building when built.

A key factor for organisations to consider is the provision and use of personal protective equipment (PPE).

In the construction industry there are many environments and situations where risks to health and safety cannot be adequately controlled in any other way. Key requirements are to meet the PPE

Regulations 2002 and the PPE at Work Regulations 1992, which are not industry specific but include duties concerning the provision and use of PPE and require that equipment is: fit-for-purpose, maintained and stored properly, provided with instructions on safe use, and used correctly by employees.

There are a multitude of PPE options specifically developed for use in the construction sector. Examples include safety harnesses for working at heights, high-visibility jackets and bibs, respiratory protective equipment, gloves, safety shoes and boots, industrial safety helmets, bump caps, safety goggles and spectacles, face shields, communications headsets, ear defenders, ear plugs, and kneeling and seating mats.

To ensure the appropriate kind of PPE is selected to provide adequate protection, we must consider the hazards of the environment. For example, ejected particles travelling at high speed from an angle grinder or debris from concrete breaking and falling objects are commonplace on construction sites. Along with other control measures, appropriate head, face and eye protection would be necessary in these circumstances.

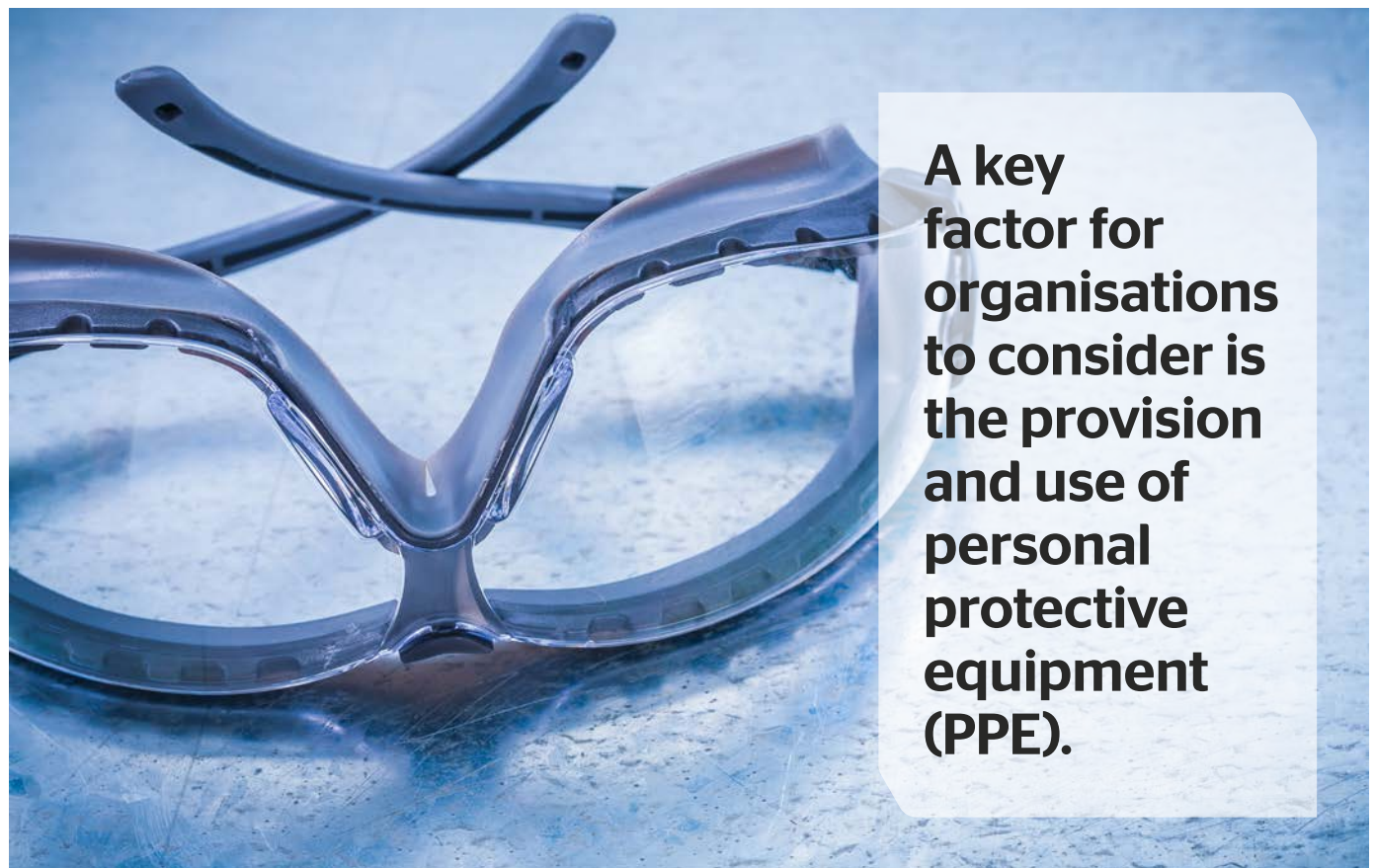
Employers need to consider the demands of specific tasks, including the physical effort and the length of time PPE needs to

be worn. Another is where the use of the specific PPE actually increases the level of risk or adds a new risk. For example, if a user is wearing more than one item of PPE such as respirator, then does this mean that the fit of their safety goggles will be compromised? Compatibility between products is therefore important.

Another risk can be communication difficulties: according to Control of Noise at Work Regulations 2005, audible warning signals such as speech or safety alarms need to be heard above the sounds reproduced at the ear. These regulations also dictate a noise level of 85 decibels – for a daily or weekly average exposure – at which employers must provide hearing protection such as ear defenders or earplugs.

One especially important area in the construction industry is the use of disposable and reusable respiratory protective equipment (RPE) in environments where users can be vulnerable to threats such as gases, vapours and particulates such as asbestos and silica dust.

The Control of Substances Hazardous to Health (COSHH) regulations guidance states that: where RPE is required, it must have the correct Assigned Protection Factor (APF), be suitable for the work in hand, compatible with other protective



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Source: 3M

equipment, fit-tested where appropriate and worn correctly. As an example, many construction activities such as cutting, grinding and drilling stone and concrete will generate respirable crystalline silica dust, which can cause lung disease. The HSE suggests RPE should have a minimum APF of 20 in this environment. A practical guide from the HSE is also available on the subject and provides essential guidance and a list of the do's and don'ts for the use and supervision of RPE.

Another issue covered by the COSHH regulations is hazards to skin: wet concrete, resins, hardeners and sealants are just a few of the substances that can cause health problems, meaning that protective coveralls will often be required.

Overall, and in addition to the hierarchy of control measures, selecting the correct PPE that offers adequate protection as well as being suitable for the activity is crucial in helping to minimise hazards on the construction site<sup>1</sup>.

## The National Infrastructure Commission

Labour peer Lord Adonis has left the party in order to chair the Government's new National Infrastructure Commission.

Chancellor George Osborne has announced Lord Adonis's appointment to the new body, which forms part of a four-pronged scheme to overhaul the way major building projects are planned, funded and delivered.

Lord Adonis, a former transport secretary and backer of HS2, will now play a key role in strategically mapping out what the country needs to build for its future.

The new commission, which will be modelled on the independent fiscal watchdog the Office for Budget Responsibility, will be set up in law in an attempt to depoliticise infrastructure projects.

It will report at the beginning of every Parliament on which infrastructure projects should be prioritised. At this stage however housing projects will not be included with the Commissions remit.

Among his first tasks, Lord Adonis will concentrate on London's transport system, connections between the Northern cities, and modernising the energy network, financed by selling off land, buildings and other government assets.

Osborne has also revealed plans to integrate 89 local authority pension funds in England and Wales into six regional funds in an attempt to encourage them to invest in major infrastructure projects.

## Construction output hits seven month high

Construction buyers reported a seven month high in output growth as the latest Markit/CIPS UK Construction PMI index rose sharply to 59.9 in September from 57.3 in August.

Buyers reported encouraging growth across all sectors as residential building enjoyed its highest rise for 12 months.

David Noble, Group Chief Executive Officer at the Chartered Institute of Procurement & Supply, said:

“The building blocks were firmly in place this month as the sector reported more work, rising staff levels, and strong optimism for the future. Though the overall growth rate of new business was showing signs of slowing down, all three sectors offered positive news with residential housing the strongest performer.

Issues around skills shortages continued to be a drag on the sector with the resultant demand for higher salaries from the smaller pool of skilled staff. Companies reported higher staffing levels but it was a continuing challenge to find specialist skills as they struggled to rely less on subcontractors to fill the gaps. Lower fuel and raw material costs helped margins even in a landscape of strong competition. Levels of output were robust and increased at the fastest pace for over six months.”

Experian estimate that construction growth will continue through to 2017, with 3.6% growth in 2016 and 4.3% in 2017.

## Improving Work/Life Balance

Introducing employment policies that encourage a healthier work/life balance for your employees can bring real benefits to a business.

Flexible working and work/life balance policies will also foster a more positive perception of an employer and can lead to better relations with employees, greater staff loyalty and commitment and motivation. It can also reduce staff turnover and recruitment costs.



1. Source: 3M.



However, the benefits of a work-life balance initiative are not confined to just the workforce. Work/life policies and flexible working practices can also help you:

- react to changing market conditions more effectively and meet customer demands - for example, shift work, part-time work and flexitime can help you operate longer without making your employees work longer hours
- meet seasonal peaks and troughs in your business
- boost your competitiveness
- become recognised as a business that people want to work for.

European Property Group Lendlease Europe has taken the plunge on work-life balance to roll out paid-for 'wellbeing days' for its staff to rest and recuperate.

From the 30th September 2015 all staff will be encouraged to take at least four days a year off work to focus on their own physical and mental health.

Under the Wellbeing Leave initiative employees can take at least one day off every 3-4 months with no formal leave limit applied.

Wellbeing Leave is being rolled out as part of Lendlease's focus on work-life balance and its commitment to being 'A Place that Cares'.

The firm hopes to reduce sickness levels by allowing people a day of leave to alleviate stress or take part in a wellbeing activity, in the hope they will return to work more engaged, healthy and productive.

Earlier this year, Lendlease introduced its enhanced shared parental leave scheme, which allows both men and women to be able to take up to six months paid leave.

Lisa White, Head of HR at Lendlease Europe, said: "Wellbeing Leave is a proactive investment in the health and wellbeing of our employees, and acknowledges the importance of a balanced work-family life.

"A healthier, happier workforce is naturally a more productive and engaged one - and less likely to take regular sick leave. There is a strong business case for us to take the health and wellbeing of our employees seriously."

### Recent Court Cases

The first case we review relates to a fatality and highlights a hardening of the courts attitude to workplace accidents, particularly with regard to custodial sentences.

### 4 Year Prison Sentence following death of a contractor

Truro Crown Court has sentenced a farmer and his employee to four years in jail, over the death of a contractor who was electrocuted when his ladder touched an overhead power cable.

Roger Matthews and his employee Norman Treseder were found to be "grossly negligent" following the death of 33-year-old Jason Morgan, from Bristol, who died while working at Great Brynn Barton Farm near Roche, Cornwall in June 2011.

Mr Morgan was installing safety netting on a barn extension on a work site described as "a death trap" during the trial.

Judge Graham Cottle told Mr Matthews: "You knew the only safe way was to bury the overhead power line. Western Power Distribution told you what was necessary but you ignored it.

"You didn't want the inconvenience of putting the work back. Your stance was hope that everything would be alright.

"The site was a potential death trap and remained so despite repeated warnings."

The court heard the cost of burying the 11,000 volt power line would have been more than £15,000.

The sentences were as follows:

- Roger Matthews, 48, the managing director of Matthews Plant Hire Ltd, from St Ervan, Wadebridge was jailed for four years after being found guilty of manslaughter by gross negligence. He has been ordered to pay £10,000 costs.
- Norman Treseder, 55, from Wendron, has been jailed for four years after being found guilty of manslaughter by gross negligence.
- Matthews Plant Hire Ltd and Philip Tucker, 57, a roofer from St Wenn, Bodmin, were found guilty of health and safety at work breaches. Mr Tucker was sentenced to nine months, suspended for two years, and ordered to pay £10,000 costs.

Speaking to Mr Matthews, Judge Cottle concluded: "You failed in your duty of care to anyone who worked on the project.

### QBE Risk Management

This newsletter is produced by QBE's Risk Solutions team. We are a team of dedicated professionals who work closely with our clients to actively assist with accident prevention, employee rehabilitation and claims mitigation.

For more about our services, please visit [www.QBEurope.com/rs](http://www.QBEurope.com/rs) or email [RS@uk.qbe.com](mailto:RS@uk.qbe.com) or discuss with your insurance broker.