

CDM PRINCIPAL DESIGNER DUTIES AND HSE NOTICE OF CONTRAVENTION EXPOSURE

Reviewed by Matthew Bartlett, Director · Last reviewed 2026-06-22

The Construction (Design and Management) Regulations 2015 (CDM 2015) impose duties on the client, the principal designer, the principal contractor, designers and contractors. The principal designer role, introduced in CDM 2015 (replacing the CDM coordinator under the 2007 Regulations), holds the design-stage health and safety responsibility on every construction project that involves more than one contractor.

WHAT THE PRINCIPAL DESIGNER MUST DO

Regulation 11 of CDM 2015 sets out the principal designer's duties. The principal designer must plan, manage and monitor the pre-construction phase; identify, eliminate or control foreseeable risks; ensure designers comply with their CDM duties; prepare and provide pre-construction information; and prepare the health and safety file. The Building Safety Act 2022 added the principal designer role under part 2A of the Building Regulations 2010, which sits alongside the CDM role and is not the same thing.

HSE ENFORCEMENT

HSE enforces CDM 2015 through the Notice of Contravention (NoC) regime under the Fee for Intervention scheme established by section 43 of the Health and Safety at Work etc Act 1974 and the Health and Safety (Fees) Regulations 2022. Where an HSE inspector identifies a material breach, the inspector issues an NoC and recovers the cost of the visit and follow-up at the published hourly rate. The rate is reviewed annually; the costs can run to several thousand pounds for a single visit.

THE PI EXPOSURE

An NoC is not, in itself, a PI claim. The NoC is a regulatory cost recovery, not a third-party claim for damages. However, where the contravention also gives rise to civil liability — a project delay, a downstream contractor's loss, a client claim for breach of the CDM duty — PI cover may respond to the civil element. The NoC itself is typically excluded from cover because regulatory fines and fees are excluded by most wordings.

A more material PI exposure arises where the principal designer's failure to manage design-stage risk contributes to an injury or fatality and the HSE prosecutes under section 33 of the 1974 Act. Criminal fines are excluded from PI; defence costs may be covered depending on the wording. Civil claims by injured parties (or their estates) under the Occupiers' Liability Acts, the Defective Premises Act 1972, or in negligence sit within PI scope where the principal designer's negligence contributed to the harm.

THE SECTORS INVOLVED

The principal designer role is most often held by an architect, but engineers, building surveyors, project managers and specialist consultants also take on the role. Our [architects PI insurance guide](#) covers the cover scope for design-stage health and safety duties; our [health and safety consultants PI insurance guide](#) covers the position where a specialist consultancy is engaged separately to discharge the role.

THE PRINCIPAL DESIGNER UNDER THE BUILDING SAFETY ACT

The Building Safety Act 2022 introduced a separate principal designer role under the Building Regulations 2010 (as amended). This role is concerned with compliance with the Building Regulations rather than with CDM 2015 health and safety. A practice taking on both roles must hold both sets of competence and document the discharge of both sets of duties. PI cover should be confirmed in writing to extend to the BSA principal designer role; some wordings drafted before 2023 may not address it expressly.

THE COMPETENCE REQUIREMENT

CDM 2015 regulation 8 requires designers, including principal designers, to have the skills, knowledge and experience and (if an organisation) the organisational capability to discharge the role. The Building Safety Act 2022 raised the competence bar further for HRB work, with PAS 8671 (principal designer) and PAS 8672 (principal contractor) providing the competence framework. Insurers underwriting HRB work now routinely ask about PAS competence.

DOCUMENTATION

The H&S file required by regulation 12 is also the contemporaneous record that supports a PI defence if a claim later arises. A poorly maintained file undermines the defence of the principal designer's conduct; a well-maintained file is the best evidence that the designer discharged the role.

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