
SECTION 2(2)

CONTRACTS AND CONTRACTORS

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Introduction

Supplementary guidance relating to building works, contracts and contractors in schools is available on the Schools Webpage in the Schools Property Handbook. The purpose of this document is to enable managers to prevent accidents and ill health to persons working on Bracknell Forest Borough Council sites arising out of the work activities of contractors and consultants. Throughout this document references to 'contractor' should be taken to include consultants or other service providers.

This document contains guidelines on what managers acting on behalf of the Council should provide to contractors and what they should expect of contractors being considered for, or working on, Council business and/or sites. It provides a system for assessing the ability of contractors to manage their health and safety responsibilities.

It also contains an aide-memoire for Nominated Officers which will enable them to check that adequate consideration has been given to health and safety when drawing up contract documentation and/or when placing contracts.

The ability of the contractor to manage the health and safety of those working for him and who may be affected by their work activities is considered to be central to the avoidance of accidents and ill health. It should be remembered that, as a general observation, a company which manages health and safety effectively, also manages its other activities effectively.

Legal requirements

Section 3 of the Health and Safety at Work etc Act 1974 provides that employers shall ensure that their work activities do not place at risk other persons not employed by them. Recent case law has established that Section 3 of the Health and Safety at Work etc Act 1974 is applicable to main contractors and, by inference, to consultants, clients, managing agents, managing contractors and sub-contractors.

Section 4 of the Health and Safety at Work etc Act 1974 places health and safety duties on 'controllers of premises' and there are numerous circumstances where a main contractor, managing agent, client or consultant could be held to be 'in control of premises'. In such circumstances, the controller of premises has health and safety duties towards persons using the premises who are not his employees, in so far as he has control of access/egress to the premises and control of the plant therein.

Regulations 3 and 11 of the Management of Health and Safety at Work Regulations 1999 give employers and the self-employed obligations in shared premises and workplaces to:

- assess workplace risks;
- co-operate with each other and take all reasonable steps to co-ordinate measures necessary for each to comply with the relevant statutory provisions; and
- exchange information on risks and provide information including common emergency procedures to their employees.

Construction (Design and Management) Regulations 2015 (Cdm 2015)

CDM 2015 provides a legislative framework aimed at achieving co-operation and co-ordination of effort to improve health and safety. They place duties upon clients, designers and contractors to co-ordinate and manage health and safety effectively throughout all stages of a

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construction project, i.e. from conception, design and planning through to the execution of works on site and subsequent maintenance and repair. It is important that all those who can contribute to the health and safety of a construction project, particularly clients and designers, understand what they and others need to do under the Regulations and discharge their responsibilities accordingly.

Any contractor working on a site has to be managed to ensure that they do not import any risks without ensuring that suitable precautions are in place and that staff and other users are informed if they will be affected. Similarly Premises Managers must ensure that contractors are not placed at risk.

The CDM Regulations place specific responsibilities on identified participants at the very early stages of a project. Hence the client should **seek professional advice from the Councils Construction & Maintenance Team before any project is started.**

Further information on the CDM Regulations can be found at:

<http://www.hse.gov.uk/construction/cdm/2015/index.htm>

A summary of roles and duties under CDM 2015:

CDM dutyholders: Who are they?	Summary of role/main duties
Clients are organisations or individuals for whom a construction project is carried out.	Make suitable arrangements for managing a project. This includes making sure: <ul style="list-style-type: none">• other dutyholders are appointed;• sufficient time and resources are allocated. Make sure: <ul style="list-style-type: none">• relevant information is prepared and provided to other dutyholders;• the principal designer and principal contractor carry out their duties;• welfare facilities are provided.
Domestic clients are people who have construction work carried out on their own home, or the home of a family member that is not done as part of a business, whether for profit or not.	Domestic clients are in scope of CDM 2015, but their duties as a client are normally transferred to: <ul style="list-style-type: none">• the contractor, on a single contractor project; or;• the principal contractor, on a project involving more than one contractor. However, the domestic client can choose to have a written agreement with the principal designer to carry out the client duties.
Designers are those, who as part of a business, prepare or modify designs for a building, product or system relating to construction work.	When preparing or modifying designs, to eliminate, reduce or control foreseeable risks that may arise during: <ul style="list-style-type: none">• construction; and• the maintenance and use of a building once it is built. Provide information to other members of the project team to help them fulfil their duties.
Principal designers are designers appointed by the client in projects involving	Plan, manage, monitor and coordinate health and safety in the pre-construction phase of a project. This includes: <ul style="list-style-type: none">• identifying, eliminating or controlling foreseeable risks;

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<p>more than one contractor. They can be an organisation or an individual with sufficient knowledge, experience and ability to carry out the role.</p>	<ul style="list-style-type: none">• ensuring designers carry out their duties. <p>Prepare and provide relevant information to other dutyholders. Provide relevant information to the principal contractor to help them plan, manage, monitor and coordinate health and safety in the construction phase.</p>
<p>Principal contractors are contractors appointed by the client to coordinate the construction phase of a project where it involves more than one contractor.</p>	<p>Plan, manage, monitor and coordinate health and safety in the construction phase of a project. This includes:</p> <ul style="list-style-type: none">• liaising with the client and principal designer;• preparing the construction phase plan;• organising cooperation between contractors and coordinating their work. <p>Ensure:</p> <ul style="list-style-type: none">• suitable site inductions are provided;• reasonable steps are taken to prevent unauthorised access;• workers are consulted and engaged in securing their health and safety; and• welfare facilities are provided.
<p>Contractors are those who do the actual construction work and can be either an individual or a company.</p>	<p>Plan, manage and monitor construction work under their control so that it is carried out without risks to health and safety.</p> <p>For projects involving more than one contractor, coordinate their activities with others in the project team – in particular, comply with directions given to them by the principal designer or principal contractor.</p> <p>For single-contractor projects, prepare a construction phase plan.</p>
<p>Workers are the people who work for or under the control of contractors on a construction site.</p>	<p>They must:</p> <ul style="list-style-type: none">• be consulted about matters which affect their health, safety and welfare;• take care of their own health and safety and others who may be affected by their actions;• report anything they see which is likely to endanger either their own or others' health and safety;• cooperate with their employer, fellow workers, contractors and other dutyholders.

Please ensure that all parties are fully aware of their respective duties and that they comply fully with these regulations. **It is strongly advised that if in any doubt contact the Councils Construction & Maintenance Team.**

What Managers Should Provide for Contractors

The Council is committed to a policy which requires that work is undertaken with due regard to health, safety and welfare standards, and expects contractors engaged on work for the Authority to apply standards commensurate with those which apply to Council employees.

Managers should therefore provide a named contact as the **Nominated Officer**, who may be a

Contracts Manager, Supervising Officer or Site Manager, to facilitate effective communication and to arrange for the exchange of information in order that effective health and safety management can be achieved. In addition, managers must ensure that specific information is provided to contractors where there may be significant or unusual risks, eg details of permits to work and isolation procedures for electrical and mechanical plant to ensure the safety of those working on plant and equipment. In these circumstances, compliance with requirements of agreed procedures will need to be included as a condition of any contract.

Where existing Council health and safety procedures are relevant to a contractor they should be explained and a copy of relevant documents made available, if appropriate; eg fire safety procedures.

Where there is sufficient capacity, and subject to local agreement, existing welfare facilities may be made available to a contractor.

What the Authority Requires of Contractors

The Council's Nominated Officer should expect prospective contractors to provide evidence of their ability to manage health and safety before a contract is awarded. The following paragraphs describe, in general terms, what the Authority should require of a contractor in order that an evaluation can be made.

Assessment and Selection of Contractors

Departments which engage contractors are responsible for ensuring that the service provider is competent to undertake the work. The awarding of a contract should only take place following a pre-contract assessment, which should ensure that intending contractors are evaluated on the basis of health and safety criteria in addition to their technical and general competence to carry out the work at a tendered price.

For **major contracts** a nominated officer will need to see and make an assessment of:

- a) A copy of the contractor's written **safety policy**, including documented risk assessments and the details of the contractor's own arrangements for health and safety management, including training to be provided and supervision of work.

Note: Whilst it is recognised that safety policy statements submitted by contractors will vary enormously depending on their business and the work to be carried out, it should be remembered that safety policies which are not tailored to the particular company/organisation and appear to bear little resemblance to the actual business of the contractor are of no value.

- b) A copy of the contractor's written **method statements** for work that involves significant hazards, with details on how the work is to be done safely and without risks to health. Method statements are expanded more fully below.

A letter and questionnaire can be sent to the contractor for him to demonstrate his ability to manage health and safety. A sample letter requesting the contractor to provide health and safety information is shown in [Appendix A](#), and a model pro forma, "Assessment Questionnaire for Contractors on Health and Safety at Work", is given at [Appendix B](#). It is recommended that this procedure be used for all **major contracts**.

The assessment system may be used in a scaled down version for assessment of contractors being selected to carry out **medium-sized and small contracts**.

On projects involving **repeated use of contractors**, after initial health and safety assessment, frequency of further assessment should be at the discretion of the relevant department which should ensure that up-to-date information is kept on file.

For **minor works not subject to a formal contract**, the range of questions contained in the pro forma may be adapted and the letter modified as appropriate to provide some system of pre-qualification appraisal as to a contractor's capability. **Alternatively**, the Nominated Officer should ensure that key aspects of health and safety associated with the work to be carried out have been discussed with the contractor. A checklist of items which may need to be considered is included as [Appendix C](#).

On receipt of health and safety assessment data, the Nominated Officer should consider the information given, and if any of the data is considered doubtful, suitable action should be taken. Further advice may be sought from the Environment Department if required.

Where health and safety information is given to a Nominated Officer by a contractor and is found to be inadequate (and no undertaking is forthcoming from the contractor concerned to put matters right), this must be regarded as a major reason for not giving that contractor the work, and details should be recorded on file together with relevant data.

Standard Rules and Conditions

It is normally difficult to include comprehensive health and safety rules in contracts with contractors, sub-contractors and consultants and the preferred course of action, as identified above, should be that the contractors **themselves** demonstrate how competent they are to manage health and safety.

Standard Clause in Contracts

The Authority's contracts should contain a clause, or similar, requiring contractors:

"to carry out all work with due regard to the Health & Safety at Work etc Act 1974, the Management of Health and Safety Regulations 1999 and all relevant Regulations, Approved Codes of Practice and HSE Guidance."

Method Statements

For certain **high-risk activities involving significant health and safety hazards** (e.g. work at height, demolition, industrial painting, work with asbestos, major lifting operations, work in confined spaces, etc), it is recommended that the Nominated Officer of the client department insists on written **method statements** from the bidding contractor.

A method statement should demonstrate that the contractor has clearly thought through the hazards which could be encountered and that the work has been properly planned with the health and safety precautions to be taken, **before** work commences.

It should therefore detail how the job is to be done safely and without any risk to health. It should include details of the personnel who will be designated to do the work together with their training/experience, a description of each stage of the work, the access and other equipment to be used (including personal protective equipment) and, where appropriate, should include plans and drawings.

Method statements which are bland and may simply list the tasks to be carried out are of little value in preventing accidents and ill health.

Where the relevant Nominated Officer is in doubt as to the adequacy of what is detailed in the written method statement, advice should be sought from the Construction & Maintenance Team.

The receipt of the method statement by the Nominated Officer (and any inspection of it) does not relieve the contractor whatsoever of his responsibilities.

Agency Works

When the Council is acting as agent to another Company/Authority, it is necessary for the awarding Company/Authority to supply the Council's Nominated Officer with all relevant information regarding health and safety requirements of the contract; this information should be requested of the Company/Authority at the appropriate time.

Liaison arrangements in connection with safety performance should be clearly understood and agreed by all parties, together with the proposed course of action in the event of failure to comply with health and safety requirements.

Official Orders

Managers procuring services by means of Council orders will need to ensure that adequate checks have been made with regard to health and safety. The Purchasing Manager/Officer in each case will need to ensure that suitable assessment and control measures are employed to enable the Authority to meet its obligations under the Health and Safety at Work etc Act 1974 having regard to the principles outlined above.

Further Information

More information on working with contractors is available at:
<http://www.hse.gov.uk/toolbox/workers/contractors.htm>

**Sample Letter Requesting Information
From Intending Contractors:**
(A copy of Appendix B should accompany this letter)

Dear

Health and Safety at Work

The Health and Safety at Work etc Act 1974 places responsibilities on Local Authorities to ensure that contractors and/or consultants perform their duties with due regard to occupational health and safety.

The awarding of contracts by Bracknell Forest Borough Council is therefore determined not only on grounds of price and technical ability, but also on assessment of past safety record and present ability to carry out the work safely and without risk to health.

In order to assist us assess your Company for suitability in this connection, would you please supply me with the information as requested on the attached form without delay.

Yours faithfully

(Local Authority's Nominated Officer)

**Assessment Questionnaire for Contractors
On Health and Safety at Work**

(A copy of this questionnaire should accompany the letter suggested at Appendix A)

1. Details of contractor/consultant

Full name and address of contractor's or consultant's company:

Tel No:

Fax No:

I certify that the details given in this health and safety assessment questionnaire are correct and accurate.

Signature:

Surname and initials (BLOCK CAPITALS):

Title:

Tel No:

Date:

2. Nature of business

Please indicate the type of work services you provide and for which you wish to be considered:

3. Health and Safety at Work Policy Statement

3.1 For Contractors etc, having 5 or more employees, please attach a copy of your latest Health and Safety Policy as required under s2(3) of the Health and Safety at Work etc Act 1974 which identifies your Company's policy, organisation and arrangements for safety.

3.2 What is the name, initials and title of the individual in your company responsible for co-ordinating health and safety matters and reporting on these to your Board of Directors?

4. Competent health and safety assistance and advice

Please give the name, initials, title and qualifications of your professional Safety Adviser, Officer, or Consultant.

Name:

Address:

Tel No:

5. Health and safety training

5.1 If you were successful in obtaining a contract from us, what health and safety training has been given, or would be given, to the **managers** involved? (Please give details with dates, or indicate future training schedule.)

5.2 If you were successful in obtaining a contract from us, what health and safety training has been given, or would be given, to the **operative** involved? (Please give details with dates, or indicate future training schedule.)

6. Accident investigation and records

6.1 Please attach, if available, latest company accident statistics and indicate their basis of measurement.

6.2 Please attach a copy of your procedure for investigating and reporting accidents, dangerous occurrences, or occupational illnesses.

7. Membership of Industrial or Occupational Safety Groups

Please detail membership of any relevant groups:

8. Plant, equipment and vehicle maintenance and inspection

How do you ensure that plant, equipment, and vehicles for use on site are issued as fit for the task, thereafter maintained, and kept in safe condition?

9. Safe systems of work

Please give brief details of appropriate systems you have developed (eg permit-to-work systems, laid down safety procedures, safety manuals, etc).

10. Subcontractors and/or consultants

How do you assess the health and safety record and competence of companies with whom you place contracts?

11. Other relevant Information

Please give any other information we should have to assist us in the assessment of your capabilities to work effectively and properly manage health and safety?

Thank you for your help In completing this questionnaire.

Please return it as soon as possible to the Local Authority's Nominated Officer (Contracts Manager or Supervising Officer) at the address on the covering letter.

An aide-memoire for checking pre-contract documentation

The following items are examples of those that should be considered by the Nominated Officer when appraising contractors:

1. Alcohol or drugs on site
2. Asbestos
3. Barriers and guard rails
4. Behaviour of contractors' employees
5. Building Operations or Works of Engineering Construction
6. Communications between Nominated Persons and Contractors' representatives
7. Confined spaces
8. Children
9. Compliance with site safety and security regulations
10. Compliance with statutory regulations
11. Cranes, lifting gear and mobile vehicles
12. Definitions of 'Authority', 'Company', 'Contractor' and 'Site'
13. Dust and fumes
14. Electrical work
15. Entry into premises or on to site
16. Excavations
17. Fire precautions
18. First aid and welfare facilities
19. Guarding of machinery
20. Gas cylinders
21. Hazardous substances
22. Highly flammable gases, liquids and substances
23. Housekeeping/site tidiness
24. Insurance
25. Ladders
26. Laser safety
27. Lifting operations
28. Mobile plant
29. Noise
30. Overhead working
31. Personal protective equipment
32. Pre-agreement as to safe working procedures
33. Railways
34. Reporting for work
35. Reporting of accidents, dangerous occurrences, fires, occupational illness, property loss/damage
36. Roofs
37. Safe means of access/work
38. Safe training and instruction
39. Scaffolding
40. Service and operating processes
41. Use of Authority equipment
42. Vehicles