

Kirklees Council

Highways Guidance Note – Highway Adoptions and the CDM Regulations March 2019 (version 1)

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This guidance note

1 This guidance note gives an overview of the [Construction \(Design and Management\) Regulations 2015](#) (the 'CDM Regulations'), the way they affect the development of prospective highways, and how Kirklees Council implements them.

2 This guidance note has been written mainly to help developers, but it will also be used by highways teams within Kirklees Council.

The Construction (Design and Management) Regulations 2015

Introduction

3 The CDM Regulations cover the way projects are designed and constructed. Their aim is to make sure that construction projects are safe to build, use, and maintain while offering developers good value. They try to reduce dangers to employees and members of the public by designing out hazards and ensuring that construction projects are managed appropriately. The [Health and Safety Executive](#) (HSE) says that the CDM Regulations are not about creating unnecessary and unhelpful processes and paperwork. Instead, they are about choosing the

right team and helping them to work together to protect the safety and health of the public and those involved with the construction, use, maintenance, and, ultimately, demolition or removal of buildings, structures, roads, and similar works.

4 The CDM Regulations impose various duties on people involved with construction projects, including clients, designers, and contractors. Failure to comply with these duties is a criminal offence.

5 Further guidance on the CDM Regulations is available from the HSE and the [Construction Industry Training Board \(CITB\)](#). See:

- HSE – [Construction \(Design and Management\) Regulations 2015](#)
- CITB – [Construction \(Design and Management\) Regulations 2015](#)

CDM clients

6 Developers are considered to be clients for the purposes of the CDM Regulations. This means that they have to appoint a ‘principal designer’ for each project and – for the construction phase – a ‘principal contractor’. In addition, they have to:

- appoint the right people at the right time
- ensure there are arrangements in place for managing and organizing the project
- protect members of the public and their employees
- allow adequate time
- ensure workplaces are designed correctly
- provide information to the designers and contractors
- communicate with the designers and contractors
- ensure that there are adequate welfare facilities on site
- ensure a ‘construction-phase plan’ is in place
- prepare a ‘health and safety file’ and keep it up to date

7 Further guidance on clients’ duties is available from the HSE and the CITB. See:

- HSE – [INDG411 – A Short Guide for Clients on the Construction \(Design and Management\) Regulations 2015](#)
- CITB – [Construction \(Design and Management\) Regulations 2015: Industry Guidance](#)

CDM principal designers

8 Most developments are prepared by a team of designers. The principal designer’s main role is to be the captain of this team. They have to ensure that the various parties work together so that safety and health-related matters are taken into account and

not overlooked by anyone thinking that they are someone else’s responsibility.

9 In addition, the principal designer has to prepare the health and safety file. This has to contain all the information relating to safety or health that the other designers need to do their jobs properly. It should also contain the safety and health information that would be required by the contractor during construction and, ultimately, the council when it takes on responsibility for the adopted highways.

10 Further guidance on principal designers’ duties is available from the CITB. See:

- CITB – [Construction \(Design and Management\) Regulations 2015: Industry Guidance](#)

CDM designers

11 For the purposes of the CDM Regulations, anyone who prepares or modifies a design or manages anyone else doing so is a ‘designer’. This means the developer, the contractor, specialist suppliers, and utility companies might all be classified as designers. It also means that the council might be classified as a designer when, as planning authority, highway authority, or lead local flood authority, it asks developers to modify their proposals.

12 All designers – including principal designers – have a duty to design out foreseeable risks to safety or health. Where it is not possible to eliminate these risks, the designer has to try to reduce or control the risks, inform the principal designer about those risks, and ensure that the health and safety file is appropriately updated. In addition, designers have to cooperate with the other parties involved with the design or construction of a development.

13 Further guidance on designers’ duties is available from the CITB. See:

- CITB – [Construction \(Design and Management\) Regulations 2015: Industry Guidance](#)

CDM principal contractors

14 The principal contractor manages the construction phase of a project. In addition, they have to prepare a ‘construction-phase plan’.

15 Further guidance on principal contractors' duties is available from the CITB. See:

- CITB – [Construction \(Design and Management\) Regulations 2015: Industry Guidance](#)

16 Guidance on construction-phase plans is available from the HSE. See:

- HSE – [CIS80 – Construction Phase Plan \(CDM 2015\)](#)

Kirklees Council and the CDM Regulations

Section 38 agreements and CDM

17 The usual way in Kirklees for developers to get roads and paths in new developments adopted as publicly maintainable highways is by entering into an agreement with the council under [section 38](#) of the [Highways Act 1980](#).

18 Under a section 38 agreement, the new roads and paths are designed and constructed by the developer. Accordingly, the developer would be the CDM client for the construction works.

19 Kirklees Council has prepared a highways guidance note [Section 38 Agreements for Highway Adoptions](#), which explains how to use a section 38 highway adoption agreement to get new roads and paths adopted by Kirklees Council.

Compliance and enforcement

20 Compliance with the CDM Regulations is enforced by the HSE, not Kirklees Council. However, the council would take on responsibility for the operation, cleaning, maintenance, and repair of any adopted highways. Therefore, it has an obvious interest in whether they have been designed or constructed in accordance with the CDM Regulations. Accordingly, the council needs to be confident that developers are complying with their legal obligations, but it will not require proof that they are doing so. To give the council confidence, developers will be asked to supply information relating to their application of the CDM Regulations at various times during the course of a development.

21 If, at any time, the council thought that developers were not complying with their legal obligations under the CDM Regulations, then the council could decide that it would not be acceptable to enter into a section 38 agreement.

Kirklees Council as a CDM designer

22 Before deciding whether developers' proposals for new highways were suitable, Kirklees Council

would review them. In addition, the council would be available at any time should developers wish to discuss the suitability of their proposals.

23 When reviewing a design or giving advice, Kirklees Council will often be a designer for the purposes of the CDM Regulations. Accordingly, the council will comply with its legal duties and pay careful attention to safety and health-related matters. However, it will not usually consider aspects of the development unrelated to the proposed highways. Neither will it usually know the developer's proposed programme or proposed methods of working.

24 Kirklees Council's duties as a CDM designer require it to cooperate with other CDM designers, developers, CDM principal designers, and CDM principal contractors. To do this, for each proposed development, it needs to know the primary contact for and the business and full legal names, addresses, phone numbers, and email addresses of each of the following:

- The developer and CDM client
- The CDM principal designer
- Other CDM designers
- The CDM principal contractor
- Other CDM contractors

Other CDM designers

25 The other CDM designers include those responsible for the design, preparation, or specification of any of the following:

- Any landscaping or public open space
- Any significant earthworks, ground improvement or land remediation measures, or treatment of mining features
- Any structures
- The buildings
- The flood routing plan and any flooding protection or mitigation works

- The master plan
- The proposed highways – including the highway drainage and street lighting
- The required utility apparatus – including broadband, electricity, gas, telecoms, and water
- The street lighting
- The surface water and foul drainage

Construction-phase safety and health

26 As stated in paragraph 14, the principal contractor is legally obliged to prepare a 'construction-phase plan'. Developers should make sure that this is sent to Kirklees Council before the start of the construction phase. In addition, the council should be sent any updates or revisions of the plan.

27 The construction-phase plan and any updates or revisions should be submitted by email in portable document format (PDF).

CDM health and safety file

28 As stated in paragraph 9, the principal designer is legally obliged to prepare a 'health and safety file'. Its purpose is to ensure that, once the roads and paths are adopted, the council has the information it

needs to allow it to maintain or repair them or to undertake any other construction work to them safely and without risks to health.

29 For works constructed under a section 38 agreement, the up-to-date health and safety file should be emailed to the council as a PDF document at the end of the maintenance period.

CDM health and safety files for other parts of developments

30 As well as preparing a health and safety file for the works that would be adopted by Kirklees Council as the local highway authority, the principal designer is legally obliged to prepare them for other parts of a development. For example, health and safety files would be required for any sewers adopted by Yorkshire Water or any retaining walls that would be sold with residential properties.

31 The principal designer should make sure that:

- health and safety files for a part of a development contain all the information required for that part
- health and safety files sent to Kirklees Council do not include information that is only relevant to other parts of a development

32 The developer and principal designer shall not rely on Kirklees Council to keep copies of health and safety files for other parts of the development or to give copies of health and safety files to anyone.

Further information, comments, and queries

Kirklees Council highways standards and guidance

Highways guidance notes

- Existing Roads and Paths Affected by New Developments
- Gradients
- Highway Adoption Drawings
- Highway Adoptions and the CDM Regulations
- Highway Adoptions Criteria
- Highways Technical Approval
- Highways, SuDS, and Private Drainage
- Introduction to Highways and Adoptions
- Operation and Maintenance Manuals for Adopted Highways
- Requirements of New and Improved Roads and Paths
- Requirements of Submitted Documents
- Section 38 Agreements for Highway Adoptions
- Soakaways
- Technical Approval of Surface Water Flow Attenuation Tanks and Pipes

Other highways documents

- Kirklees Highways Standard Details

Comments and queries

Kirklees Council welcomes comments and queries about this guidance note

Although Kirklees Council is not responsible for the content of external websites, please report any broken links

- Huddersfield (01484) 22 1000 – ask for ‘Highway Adoptions’
- Highways.Section38@kirklees.gov.uk
- www.kirklees.gov.uk/highwayadoptions
- Kirklees Council
Highway Adoptions
Flint Street Depot
Flint Street
Fartown
Huddersfield
HD1 6LG

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