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**Health and Safety Executive****CD261 - Consultation on replacement of the Construction  
(Design and Management) Regulations 2007****Reply Form****Completing this Questionnaire**

You can move between questions by pressing the 'Tab' / 'Shift-Tab' or 'Page Up' / 'Page Down' keys or by clicking on the grey boxes with a mouse. Please type your replies within the rectangular grey boxes, or click on the square grey boxes to select an answer (e.g. 'Yes' or 'No').

**Respondent's details:****Name:**

Tim Howard

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Reading

**Telephone:**

0118 378 6446

**Job Title:**

Policy Advisor

**Postcode:**

RG6 6AB

**Street address:**

Miller Building, University of Reading, Whiteknights, PO Box 227

**Organisation:**

Institute for Archaeologists (IfA)

**Fax:**

0118 378 6448

### Size of organisation:

Choose one option:

Not applicable

1 to 9 employees

10 to 49 employees

50 to 249 employees

250 to 1000 employees

1000+ employees

Self-employed

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### Type of organisation:

Choose one option:

Academic

Charity

Consultancy

Industry

Local government

Member of the public

National government

Non-departmental public body

Non-governmental organisation

Pressure group

Trade association

Trade union

If you chose 'Other' please  
specify:

Professional body

**Is your response being made in your capacity as:**

Choose one option:

An employer	<input type="checkbox"/>	An employee	<input type="checkbox"/>
Health and safety professional	<input type="checkbox"/>	Self-employed	<input type="checkbox"/>
Trade union official	<input type="checkbox"/>	Training provider	<input type="checkbox"/>

Other – please specify:

A professional body
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**If you are a dutyholder under CDM 2007 which role best describes you?**

Choose one option:

Client	<input type="checkbox"/>	CDM co-ordinator	<input type="checkbox"/>
Designer	<input type="checkbox"/>	Principal contractor	<input type="checkbox"/>
Contractor (including sub-contractor)	<input type="checkbox"/>	Worker	<input type="checkbox"/>

Other – please specify:

Not applicable
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**Confidentiality**

Please indicate below if you do not wish details of your comments to be available to the public. (NB if you do not put a cross in the box they will be made available to the public. This takes precedence over any automatic notes on e-mails that indicate that the contents are confidential.)
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**Structural simplification**

Please read in conjunction with paragraphs 33 to 35

**Q1. This consultation document sets out a new approach to CDM. HSE believes that this approach will be more easily understood by small or medium-sized employers than the current one (set out in CDM 2007). Do you:**

Agree	<input checked="" type="checkbox"/>
Disagree	<input type="checkbox"/>

Please provide comments, including evidence where available, if you wish.

Subject to the concerns expressed under question 2.

**Q2. Please comment on any of the definitions in draft regulation 2 that you think are problematic.**

(1) IfA is concerned with the definition of 'construction work' in draft regulation 2(1), insofar as that definition expressly purports to exclude 'pre-construction archaeological investigations'.

(2) Such investigations frequently involve intrusive investigations, particularly archaeological excavation (in its widest sense), whether as part of an evaluation prior to the determination of a planning application or pursuant to a condition or planning obligation in advance of (as well as during) construction. Such excavations can in either case be extensive and, regardless of their size, encompass many of the risks and dangers envisaged by the draft regulations.

(3) To exempt such activity from the regulations would be illogical and would potentially undermine the policy objectives behind the proposed regulations, including the maintenance and improvement of worker protection and the simplification of the regulatory package (see paragraph 1 of the consultation document). For instance, where construction works such as demolition precede archaeological excavation, there could be a hiatus in the application of the draft regulations prior to the commencement of further construction works.

(4) The Institute would not seek to include non-intrusive archaeological investigation within the definition of 'construction works' in the same way that 'site survey' is not proposed to be included. However, **IfA requests HSE to consider revising draft regulation 2(1) so as expressly to include intrusive archaeological investigations (whether before or during construction) within the definition of 'construction works'.**

(5) Nonetheless, there remain concerns from some IfA members that archaeological organisations and practitioners should not be subject to inappropriate or unduly onerous responsibilities. There needs to be clarity (in the regulations and in any supporting guidance) with regard to archaeological works and the responsibilities and required competence of

archaeologists to fulfil the various roles envisaged by the regulations.

**Q3. The technical standards have remained effectively unchanged. These are contained in Part 4 of the proposed Regulations. Is this approach acceptable to you?**

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Please provide comments, including evidence where available, if you wish.

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**Q4. CDM 2014 continues to place general duties on designers. HSE has redrafted the duties to make them clearer. In your opinion, are the designer duties clearer?**

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please provide comments, including evidence where available, if you wish.

No Comment.
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**Q5. Do you think that these general duties on designers would be effective in considering relevant health and safety risks during subsequent construction work?**

Yes	<input type="checkbox"/>
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No	<input type="checkbox"/>
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Please provide comments, including evidence where available, if you wish.

No Comment.
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**Q6. Construction phase health and safety plans, proportionate to the risks involved, will be required for all projects. Currently, only projects lasting more than 30 days or 500 person-days need plans. Will there be any impact for projects that currently do not require a plan?**

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

What will these be?

No Comment.
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**Replacing the ACoP with targeted guidance**

Please read in conjunction with paragraphs 36 to 39

**Q7. HSE proposes to withdraw the CDM 2007 ACoP and replace it with a tailored suite of sector-specific guidance. Do you agree with this approach?**

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Please provide comments, including evidence where available, if you wish.

(1) HSE's view expressed at paragraph 37 of the consultation document (*'that businesses should be focused on what outcomes they want to deliver rather than the status of a document'*) may not be a view shared by others in practice. Steps should be taken to ensure that this approach is understood and endorsed throughout the sector and that significant weight is given to any guidance produced.

(2) IfA agrees with HSE that *'the competence of construction industry professionals should be overseen by, and be the responsibility of, the relevant professional bodies and institutions'* (paragraph 53 of the consultation document). Given IfA's view that intrusive archaeological investigations should qualify as 'construction work' within the meaning of the draft regulations, the Institute would welcome the opportunity to work with HSE and other stakeholders in the historic environment sector to ensure that guidance fully addresses the implications of CDM regulation for such investigations.

**Q8. Please comment on whether there is any additional guidance that would be helpful.**

Guidance specifically relating to archaeological investigation would be useful, whether as stand-alone guidance or as an integral part of general guidance.

**Replacing the CDM co-ordinator with the principal designer**

Please read in conjunction with paragraphs 40 to 44

**Q9. HSE believes that there is a need to bring the pre-construction co-ordination function into the project team that is in control of the pre-construction phase. This will be an effective way of achieving the aim of integrated risk management. Do you agree with this approach?**

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

**Please provide comments, including evidence where available, if you wish.**

Subject to the concerns expressed above and provided that all archaeological organisations involved in construction are able to engage in the process without being subject to inappropriate or unduly onerous responsibilities.

**Q10. CDM 2015 requires the appointment of a Principal Designer (PD) and Principal Contractor (PC) if a project involves more than one contractor. What would be the impacts for projects that do not currently require such appointments:**

**a) at the pre-construction phase? Please provide comments, including evidence where available, if you wish.**

No comment.

**b) at the construction phase? Please provide comments, including evidence where available, if you wish.**

No comment.

**Replacing the explicit requirement for individual competence with new regulation 8 and removing CDM’s explicit requirement for corporate competence**

Please read in conjunction with paragraphs 45 to 54

**Q11. The draft Regulations do not explicitly require clients to check the competence of organisations, before they are appointed to carry out construction work. However, this requirement is implicit in the duty in regulation 5 for clients to ensure adequate management arrangements. HSE believes that this will be clearer to those reading the Regulations.**

**Do you:**

Agree	<input type="checkbox"/>
Disagree	√

**Please provide comments, including evidence where available, if you wish.**

(1) Archaeological work should be carried out by accredited archaeologists. The competence of archaeologists is validated by membership of the Institute at a professional grade (see <http://www.archaeologists.net/regulation/accreditation>) and the quality of organisations is assured

by registration on the Institute's Register of Organisations (see <http://www.archaeologists.net/regulation/organisations>). In addition, adherence to the IfA Code of conduct (<http://www.archaeologists.net/sites/default/files/node-files/IfA-BYLAWS-Code-of-Conduct.pdf>) requires members only to accept responsibilities and undertake work for which they are adequately qualified.

(2) If express references to competence are to be removed from the regulations, there will remain a need for some mechanism or mechanisms to ensure that competence is achieved, maintained and monitored. In the archaeological sector such mechanisms are provided by IfA (see above) and guidance should require IfA membership and/or registration in relation to archaeological work. The Institute would welcome the opportunity to work with HSE and other stakeholders to ensure that its own mechanisms continue adequately to reflect health and safety issues and that supporting guidance adequately addresses archaeological issues.

**Q12. What should be required of clients to ensure the competence of those they appoint and / or engage in addition to ensuring project management arrangements are adequate and effective?**

See above with regard to archaeological work.

**Q13. The draft Regulations replace the specific requirements for individual worker competence in CDM 2007 with a more general requirement. Under CDM 2014 those arranging for or instructing workers to carry out construction work should ensure they have received sufficient information, instruction and training and have adequate supervision. HSE believes that this will have no adverse effects on health and safety.**

**Do you:**

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>

**Please provide comments, including evidence where available, if you wish.**

For archaeological work, individual workers should be members of IfA and the organisations for which they may work should be IfA Registered Organisations (see above).

## Notification

Please read in conjunction with paragraph 62

**Q14. CDM 2015 changes the notification threshold to cover projects lasting more than 30 working days and having more than 20 workers working simultaneously at any point in the projects; or exceeding 500-person days. This will reduce the number of projects that need to be notified, but will require notification of domestic clients' projects that exceed this threshold.**

**What do you think will be the impact of this?**

No comment.

## Clients including domestic clients

Please read in conjunction with paragraphs 55 to 58

**Q15. Clients' duties in proposed regulations 5, 7 and 8 maintain a strong focus on the way that construction work is carried out on their behalf. Do you think this is the best approach for commercial clients' projects?**

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

**Please provide comments, including evidence where available, if you wish.**

No comment.

**Q16. HSE's preferred approach in relation to domestic clients' projects is set out in regulation 4. By default this deems that their duties will be fulfilled by the contractor (or principal contractor where there is more than one contractor). There is also the possibility that a domestic client can instead have a written agreement with a principal designer that the principal designer will fulfil those duties. HSE believes this would be a proportionate approach.**

**Do you agree with this approach for domestic clients' projects?**

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please provide comments, including evidence where available, if you wish.

No comment.
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### Impact Assessment (Annex 2)

**Q17. Do you agree with the analysis of the impacts (including costs and benefits) on commercial projects presented in the IA?**

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If you have answered 'Yes', please provide comments if you wish.

No comment.
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If you have answered 'No', what steps would you take to improve it? Please provide numerical data to aid appraisal if relevant.

No comment.
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**Q18. Do you agree with the analysis of the impacts (including costs and benefits) on domestic projects presented in the IA?**

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

**If you have answered 'Yes', please provide comments if you wish.**

No comment.
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**If you have answered 'No', what steps would you take to improve it? Please include numerical data to aid appraisal if relevant.**

No comment.
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**Q19. Are there any costs or benefits (positive or negative) that we have missed that you believe should be taken into account?**

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

**If you have answered 'Yes', please provide details. Including numerical data where possible**

No comment.
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**If you have answered 'No', please provide comments if you wish.**

No comment.
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**Other**

**Q20. Do you have any other comments on the proposals covered by this Consultative document? Please provide comments if you wish**

No comment.

**Please send your response by 06 June 2014 to:**

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London  
SE1 9HS  
Email: [cdm2015@hse.gsi.gov.uk](mailto:cdm2015@hse.gsi.gov.uk)

**Thank you for taking the time to complete this questionnaire**