March 2017

Managing Contractors Safely

Occupational Health and Safety Service
HSD015M (rev 4)

UNIVERSITY OF CAMBRIDGE

Contents

Introduction

The University carries out a wide range of projects that involve the use of contractors. These can include

- major building projects, such as the construction of completely new buildings often on green field sites
- refurbishments and alterations, which include building extensions, and reorganisation of offices and laboratories some of which can be quite major
- repair and maintenance, where repair work is carried out to the fabric of a building or planned preventative maintenance is carried out
- installation, maintenance, repair and/or alteration of equipment, facilities and services

This list is not exhaustive.

Many of these classes of project will be managed by Estate Management (EM), although some smaller projects, particularly within the larger departments, may be managed entirely by the department's personnel where skilled staff are available to do the work. Throughout this document references are made to the 'User', which is the University Department on whose premises the project is being carried out.

The purpose of these guidelines is to promote and encourage a satisfactory standard of health and safety management when contractors are on University property. The minimum standards of activity expected are those specified in the Construction, Design and Management Regulations.

Three requirements are paramount:

1. The University must not, so far as is reasonably practicable, jeopardise the health and safety of the contractor by reason of our activities. This would include those activities that we carry out in the present and the legacy of the past, and would include chemical, biological and radiation risks.
2. The contractor must not, so far as is reasonably practicable, jeopardise the health and safety of our personnel by reason of their activities.
3. The University and the contractors must have effective means for suspending operations swiftly and taking remedial action if a dangerous situation appears to be developing or has already developed, regardless of which party appears to be responsible for the situation (Emergency plans).

The management of contract work is complex, due to the presence on site of employees from more than one employer, and this relationship can be further complicated by the presence of two distinct University departments in many projects – EM and the User Department.

The legal relationship between the University and the contractor is also complex, in part because the health and safety legislation relating to this type of situation is fragmented. The University is explicitly obliged under The Management of Health and Safety at Work Regulations to co-operate with other employers when they share our workplace (whether temporarily or permanently) so as to meet the requirements of fire legislation and to inform the other employers about the risks that arise from our undertaking. We are also explicitly obliged under the Health and Safety at Work Act (HaSaWA) to ensure the safety of those <u>not</u> in our employment.

The definition of <u>undertaking</u> has, not surprisingly, been the subject of case law, and there are circumstances where a contractor who is injured as a result of the work they are doing at the University could be considered to have been harmed as a result of the conduct of the

University's undertaking. The 'undertaking' of the University includes such activities as teaching, research, conferences, exhibitions, sport, public events such as Science Week, and the management of living accommodation, eg any legitimate University business. To give a specific example, if a contractor is injured while maintaining one of our research machines, it may be viewed by the HSE as part of our undertaking. Contractors are also bound by Law, for example in larger projects the Construction, Design and Management 2015 (CDM) specifies that personnel will have certain responsibilities for their activities.

We have a legal duty to select competent contractors (see section under Planning and Execution of the Project). If a contractor is shown not to have been competent, perhaps in the aftermath of an accident, then the University may have to show how we attempted to ensure that he was competent. If the University cannot, to the Court's satisfaction, we may be held to be in breach of civil and/or criminal law. This is usually achieved by pre-assessment of the contractor by EM who maintain a file of selected competent contractors/preferred suppliers file.

One cannot pass on legal responsibilities under health and safety legislation, by means of any contract. However, the contract can be used to help to clarify the tasks that each party will undertake. Broadly three kinds of contract can be envisaged, and the outline of the suggested tasks is given below.

Labour-only contract

The simplest course of action when a contractor is supplying additional people for the University to use is to treat them in the same way as our own, albeit temporary employees. Examples of such employees might be additional staff to perform lifting and handling during a laboratory move. The University have by definition the management control over them, regardless of whether they are specialists in their field. The University should give them induction training and provide protective clothing if the risk assessment shows that it is needed.

However, if employees have been supplied by an employment business, such as a temping agency, it would be reasonable to expect that firm to supply protective clothing or prescription safety spectacles. It is essential that this is checked and clarified when setting up the contract.

It is recognised that around the University these cases are, in fact, treated exactly the same as is described in the previous paragraph. In any of these cases equipment or PPE supplied must be safe and fit for the purpose. Risk assessments must be shared between the contractor and the employing department to ensure that nothing slips through. Good co-operation and communication between employing organisations will result in a co-ordinated scheme having one standard, one way of dealing with employees and intelligible risk assessments.

Contractor has little or no access to our employees

This occurs when a contractor is working off-site, or within a defined area set aside entirely for his own use. There is no access in normal circumstances to the client's employees.

In this instance the contractor must assess the risks involved with their business as it may affect our employees. Efforts must be made on our part to ensure that the contractor is competent to do the work before appointment.

If such a contractor is handling or processing anything supplied by the University then we must give them whatever information is necessary to ensure the safety of their employees. Regular site meetings to share information are useful in such cases.

Contractor and our employees are liable to mix
This is the commonest situation, particularly for maintenance and small works. Considerable effort needs to be put into co-operation and co-ordination between the employers. The Client should go to some lengths to determine the contractors competence, and should keep a watch on how their activities are affecting us, and vice versa. This is an area where conflict of interests or nuisance may occur.

University units embedded in buildings not belonging to the University can still operate these guidelines, but must ensure that they do not come into conflict with the systems operated by the building owner. Leases can determine the responsibilities and early contact with EM or the building owner is advised.

Large Projects

Large projects will normally be managed by EM, who will act as the Client. The trigger points which bring projects within these (CDM) Regulations are laid out in Appendix A.

It is the Client's responsibility to appoint a Principal Contractor and a Principal Designer, and to satisfy himself that these parties are competent to carry out their respective tasks as stated in the CDM Regulations 2015, and that sufficient resources have been provided for them to perform their functions. The Client shall ensure that a suitable Construction Phase Plan is produced. For guidance on selecting a suitable Contractor, and others, such as Designers, there is a guidance document issued by the Health and Safety Executive (1). EM maintains a preferred list of Contractors who have been pre-selected for competency and resources.

The Client is required by law to ensure that a' Health and Safety File' is being prepared for the project, to contain safety information for people who will carry out construction, maintenance and cleaning work on or in it. The User Department will be given the file, with EM having a second copy of the Operation and Maintenance Manuals. This file will also contain information on any item that may be a 'residual risk'. This file must remain with the building.

Vacating Premises

When a Department vacates premises it is essential that they follow the University guidance on vacating premises (HSD022M). They must remove from the premises anything that constitutes a danger to those working on it subsequently, and for this reason the premises must be de-contaminated where necessary. Failure to do this can put people at risk, and can dramatically increase the costs of subsequent work, since dealing with unknown and unquantified hazards is always extremely expensive. In addition checking the EM Asbestos register is advisable early on in a project. Finding asbestos or any other contaminants part way through can cause severe delays and added expenditure.

Planning and Execution of the Project

The principles of competence, co-operation, communication, co-ordination and control form the essential elements of the relationship between EM (when appropriate) the User Department and the Contractor on each project.

A useful flowchart produced by the HSE summarises the steps in a contract, and is given in Appendix B. It divides the progress of a contract into five steps – planning, choosing a contractor, work, keeping check and reviewing the work.

Competence

Contractors must be competent to complete the task properly and safely. EM maintain a preferred list of contractors that have been pre-assessed by them and it is best to use a contractor from this list. However, on occasions it may be necessary to source a contractor from elsewhere, and in that instance it is advised that the Department sends them a questionnaire relating to the following topics, where applicable:

- their experience in the type of work you want done
- their health and safety policies and practices
- their recent health and safety performance (number of accidents, etc)
- what qualifications and skills they have, including membership of any professional body or trade organisation
- how they select their sub-contractors, and how they assure health and safety in that relationship
- their safety method statements
- what health and safety training and supervision they provide
- how they consult their workforce
- Is there any independent assessment of their competence
- are they are members of any 'passport' or skills certification scheme
- their insurance cover

Co-operation

Initial advice for all work should be sought from the departments own Building Surveyor within EM. It is a requirement under University Statutes and Ordinances to notify the University of "substantial work of a structural nature or work affecting the safety of the premises". Statutes and Ordinances Chap. XIII Page 941 para. 3d onwards.

Co-operation between EM, the User Department and the Contractor helps to make projects go smoothly and to everyone's satisfaction. For projects subject to CDM, co-operation between the Client and the Contractor is an explicit legal duty. Since EM and the Department belong to the same employer, but are at different locations, close co-operation between them is essential to ensure that all the University's legal duties are met. If you occupy an older building checking the Asbestos register prior to any refurbishment is essential.

In general, while the University would wish to co-operate fully with contractors, we should be cautious about either lending equipment to them or borrowing it from them. Any such equipment must be in a fully safe condition, within date if it is subject to inspection, and we must ensure that the person who is intending to use it is familiar with it and is competent to use it under PUWER (Provision and Use of Work Equipment Regulations).

Communication

It is of enormous benefit for people within a department to know who the key contacts are for the projects being undertaken in their department. An example form that can be used to summarise and exchange details of those key contacts is given at Appendix C. This example form has been abbreviated from an EM form merely to give an indication of the information that can be summarised in this way. When using such a form the key contacts relevant to that project should be inserted. Forms of this nature are equally useful to EM managed projects and internally managed projects in the larger departments.

For large contracts, managed by EM, the User Department will be asked to nominate a Representative User, whose role is described in the document at Appendix D. This person, apart from putting their wishes to the project design team, also has a crucial role in relation to the layout and functionality of the finished building. It is probable that this person will need to seek the advice of Safety Professionals within the University to check that the plans are adequate in this respect and that timings reflect possible conflict to account for exams or major meetings.

Contracts of a major nature will require pre-contract meetings with a design group. Clients and Users should be involved early on to be fully engaged in the project. Experience has shown that if the user Department is poorly represented at these meetings, there is a high probability that they will find their expectations are not borne out at completion.

EM Maintenance Unit must be consulted when services work is done, and it should be remembered that the University has other consultants who should be consulted about alterations. Examples include: Fire Safety Team, Safety Office, Disability Unit, Asbestos Management, Security Office, Telecommunications, the Environment Office and others mentioned on the form in Appendix C. This is essential to keep information up to date and to ensure safety is not compromised by unauthorised alteration.

For minor projects, managed from within the Department, the Department should determine a structure of management and communication for the project, for example a project team consisting of the Laboratory Superintendent, Administrator and the Departmental Safety Officer (DSO), in addition to representatives from the users of the facility. There may be a requirement to refer to a Safety Professional, if the DSO cannot fulfil that role, from the Safety Office or even an accredited Union safety representative.

The contractor should be informed of the person to report to on arrival at the Department. A designated person in the Department (representative user) should be informed of the expected arrival of the contractor. This person should be made aware of the contractor's business in the Department by the project team. The contractor must sign into the Department through the Department's own security system.

On arrival they should be given the following information as a minimum:

- parking arrangements
- first aid arrangements, in particular whether the University is offering cover and how they will get it
- how to report any accidents to their personnel while they are on University premises
- the identity of the DSO
- evacuation procedures and the functioning of the fire alarm system
- acceptable working times, and any times when they need to be particularly quiet/no radios
- welfare arrangements (toilets, eating areas, etc)
- no smoking policy
- sensitive or 'No-go' areas of the Department, if any
- disposal of waste

This information may be given out in the form of a leaflet and/or verbally. An example of a suitable signing-in sheet is given in Appendix E.

Contractors should report any accidents when on University premises through the University reporting system, whether they are likely to have been as a result of our activities or not.

The User Department should identify, with the contractor:

- any potential risks to the contractor from the Department
- any potential impact on the Department's work posed by the contractor.

Examples of potentially serious impacts include a need to disable parts of the fire alarm system or work that interrupts the air circulation systems or cooling water systems + power and data. There should be established mechanisms in the Department for notifying members of the Department of works and their impact. These risks need to be reviewed at regular intervals during a project of any length.

Emergency scheme – for example, what happens if the power/water/data is cut off accidentally?

EM issue standing instructions to Contractors, giving them a brief overview of the hazards to be found in departments and the standards that they expect. CDM standards require that Contractors are made aware of any residual hazards prior to starting the job.

Control

Contractors should be working in a manner that meets with any legal requirements. However, the University should be proactive and should ask to see method statements and risk assessments, because it is inevitable that there is an interface between their operations and ours. It is not normally possible for them to work entirely in isolation even on green field sites.

Certain activities are especially dangerous due either to their location or their nature. Access to roof areas or service areas can expose contractors to danger if there is a fire while they are on site, and a note should be made of their presence in these areas. If the fire alarms are inaudible in their working area, special procedures are needed to evacuate them. They should be asked to report direct to the Departmental Fire Manager in the event of an evacuation so that it is known that they are safe. Access to the roof may also bring contractors in close proximity to fume cupboard outlets, and in this event special consideration to their safety is needed - the emissions may need to be checked, contamination may need to be removed or work in the fume cupboard may need to be suspended. All these aspects require close liaison between contractor and department.

Contractor activities such as hot work will normally require a Permit to Work. If the project requires the use of a crane, this operation must be managed so as to ensure that personnel in the department are not at any time at risk. It is essential to nominate a person who has the authority to halt the operation in case of imminent danger, and to agree the signal that will do this under the lifting operations (LOLER) regulations.

If a contractor is seen to be doing something that appears to be unsafe, particularly if there is any possibility of injury or damage to University property or personnel, the department should take immediate action to stop it. It may be appropriate for the department to nominate the DSO or Senior Administrator to do this. Likewise, any member of University personnel who is causing a danger to a contractor must be prevented from doing so.

At the end of each working day, the contractor should leave the premises in good order, with such systems as fire alarm systems fully functional. The department should nominate someone to check up on the contractors to ensure that this happens. Feedback must be given to EM and/or the contractor's management if it does not.

Co-ordination

The contractor and the Representative User should meet with EM on a regular basis to review progress, discuss problems and ensure information is flowing correctly. The relationship between the Principal Contractor and any sub contractors needs particular attention, an information cascade is critical in ensuring everyone knows what is required of them.

Close contact with the site foreman or agent for the contractor is beneficial. The project team within the department should also be given a list of key contacts at EM who are associated with their particular project, so that they can quickly make contact in the event of difficulties arising. The DSO should in all cases have this list of contacts.

The user rep can also make a significant contribution by ensuring any relevant information regarding the project (newsletter) is circulated around the department to keep everyone aware of what is going on.

Completion of the project

When the project is complete, the Department should receive, either direct from the contractor or from EM, all the documentation that is needed for the future maintenance and use of the facility. This may include a Health & Safety File (under CDM) and will include items such as drawings, manuals, etc. Ideally the Health and Safety file should be separate from the Operations and Maintenance manual otherwise important information can get lost in the mass of material.

The Representative User, or nominee, should be shown how to use any equipment with which they are unfamiliar before the project is terminated, and this may extend to the provision of written instructions. Some projects include training elements.

The project should be reviewed, in particular to record the following:

- The extent to which the project design has resulted in a sound structure which meets with the user and any health, safety and environmental requirements.
- Any aspects of the project execution that were difficult or dangerous, along with any accidents or incidents
- Any major departures from the original plan, and their outcome

Where there have been significant problems, the position of the contractor on the preferred contractors list should be reviewed by referral to EM.

References

1 HSE Construction (Design & Management) Regulations 2015 L153
2 Use of Contractors (HSE) INDG368 www.hse.gov.uk/pubns/indg368.pdf
3 PUWER – Provision & Use of Workplace Regulations
4 LOLER – Lifting Operation and Lifting Equipment Regulations
5 www.hse.gov.uk

Appendix A: Criteria for determining whether a project comes with requirement to notify HSE under the Construction (Design and Management) Regulations 2015.

The University designate the CDM standards as the minimum required even if the project is not notifiable to the HSE.

The regulations apply to:

all notifiable construction work (i.e. those where the construction phase lasts more than 30 days or involves more than 500 person days of construction work or 20 or more workers at any time)

Construction phase means the period of time starting when construction work in any project starts and ending when construction work is completed.

Construction work means the carrying out of any building, civil engineering, or engineering construction work and includes any of the following:

(a) The construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure, or the use of corrosive or toxic substances), de-commissioning, demolition or dismantling of a structure;

(b) The preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation (but not pre-construction archaeological investigations), and the clearance or preparation of the site or structure for use or occupation at its conclusion;

(c) The assembly on site of prefabricated elements to form a structure or the disassembly on site of the prefabricated elements which, immediately before such disassembly, formed a structure;

(d) The removal of a structure, or of any product or waste resulting from demolition or dismantling of a structure, or from disassembly of prefabricated elements which immediately before such disassembly formed such a structure;

(e) The installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure,

Appendix B: HSE guidance

Managing contractors: 5 steps

STEP 1: PLANNING

- **Define the job**
- **Identify hazards**
- **Assess risks**
- **Eliminate and reduce the risks**
- **Specify health and safety conditions**
- **Discuss with contractor (if selected)**

STEP 2: CHOOSING A CONTRACTOR

- **What safety and technical competence is needed?**
- **Ask questions**
- **Get evidence**
- **Go through information about**
  - the job
  - the site, including site rules
- **Ask for a safety method statement**
- **Decide whether subcontracting is acceptable. If so, how will health and safety be ensured?**

STEP 3: CONTRACTORS WORKING ON SITE

- **All contractors sign in and out**
- **Name a site contact**
- **Reinforce health and safety information and site rules**
- **Check the job and allow work to begin**

Managing contractors – CHECKPOINT

The steps are linked. During Step 3: *Contractors working on site* different needs could emerge and the job may change. If so, you need to return to Step 1: *Planning.*

STEP 4: KEEPING A CHECK

- **Assess the degree of contact needed**
- **How is the job going:**
  - as planned?
  - is the contractor working safely and as agreed?
  - any incidents?
  - any changes in personnel?
- **Are any special arrangements required?**

STEP 5: REVIEWING THE WORK

- **Review the job and the contractor**
- **How effective was your planning?**
- **How did the contractor perform?**
- **How did the job go?**
- **Record the lessons**

At Step 5: *Reviewing the work* evaluate all the previous steps:

- your plan
- your contractor
- the job
- how you kept a check.

Appendix C: Sheet for Recording and Communication of the Key People Within a Project

(Abbreviated from sheets PT1 to PT4 from EM to illustrate the concept; headings should be chosen to suit the particular project. The sheet once completed can be photocopied and distributed to Administrators, DSOs, etc.)

PROJECT TEAM

Department:			
Address:			
Project:			
Building No:		**Project No:**	
Warrant No:			
	Tel No:	**Fax No:**	**E-Mail No:**
Department			
Representative User			
Central Admin			
Finance			
University Advisers			
Safety			
Fire			
Security			
Computer			
Telecom			
Union			
Asbestos/mercury			
Project Manager			
Architect			
Structural Engineer			
	Tel No:	**Fax No:**	**E-Mail No:**
Mechanical			
Electrical			

Quantity Surveyor			
CDM			
Building Clerk of Works			
M&E Clerk of Works			
Local Authority			
Listed Building Consent	**Ref: No.**		
Conservation Area Consent			
Planning Consent	**Ref: No.**		
Building Control	**Ref: No.**		
Main Contractor			
Sub-Contractors			

Appendix D: Representative User – a guide to what is needed

University of Cambridge
Estate Management (EM)

1. The role of Representative User is central and crucial to any building project. It is noted in the HEFCE/CVCP document "Procurement Guidelines for Higher Education: Building and Engineering Projects" (endorsed by this and other Universities) and is set out in standing instructions for EM.

2. If the outcome to a building project is to be a success, the work involved in the job of Representative User will include the following:

    a. To be the bridge between the users of the building and the rest of the procurement team, which also includes EM (as client, the authority for all matters with contractual implications), the designers (architects, services, structural and landscape designers, etc), the constructors (main contractor who manages the construction and specialist constructors who do the work) and the QS (cost manager). There may also be an external project co-ordination manager, to help with co-ordination and day-to-day matters, and other specialist advisers such as CDM coordinators.

    b. To be a member of the panels appointing designers, QS and constructors: criteria are set out in approved University policy.

    c. To advise the design team on the Department's requirements and to "sign off" the all-important brief, the basis of the design for current and, crucially, the future users of the building. This, like the above matters, needs to be done by the Representative User personally. The Representative User will also be asked to approve/comment on any changes of significance and relevance. If there is a serious mismatch between budget and anticipated cost during the design stage (or even construction stage) the Representative User will be invited to take part in the "Value Engineering" exercise which brings these into consonance, albeit sometimes painfully. The Representative User will also be asked to "sign off" the layout drawings.

    d. If there are serious problems or fundamental decisions to be made, the Representative User will be invited to attend the relevant discussion of the Buildings Committee.

    e. The Representative User, or if necessary a deputy, should attend monthly progress meetings, and the drafting discussions of the post-project review (which he/she will see for final comment prior to its being discussed at Buildings Committee). It is also helpful when the Representative User can attend User Group meetings after occupation.

3. Potential Representative Users are asked to speak with one or more previous Representative Users – EM have a list of these.

4. In summary, the role of Representative User is time-consuming, challenging, often difficult, always crucial – and usually extremely rewarding.

Appendix E: Suggested signing-in sheet

Visit log for contractors and visiting workers

Date	Name of Contractor or Visiting Worker	Employer (Company Name)	Contact	Purpose of Visit	Work Location	I have been shown the risk assessments relating to the area where I am to work and I have informed the Representative User of any risks arising from my work SIGNATURE	Local Induction		Time in
							Y	N	

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