



Kevin Smyth Project Management

On behalf of the
Council for Aluminium in Building



Economic necessity

70% of social product is created by human labour

Human Resources



How valuable is this resource

loss to employers due to accidents

Germany 2004 €44.2 B

UK 2012 £20 B



How valuable is this resource

No organisation would allow stock material or goods to rot away

Why allow skills and talent to do so

Legal Framework

Health and safety at work Act
Civil Duty of care to protect

<i>CRIMINAL</i>		<i>CIVIL</i>
State and Defendant	People	Claimant and Defendant
Magistrates / Crown Court	Place	County / High Court
Beyond all reasonable doubt	Proof	Balance of probabilities
Fine / imprisonment	Penalty	Compensation



Question.

Terms:

Responsibility

Accountability

what is the difference between the terms

Levels of statutory liability

Three levels of statutory liability

1. 'Absolute liability'

- The employer **MUST** comply with the law.
Absolute duties are worded as 'must' or '*shall*'

2. 'So far as is practicable'

1. If the duty is technically possible then it must be done irrespective of cost or inconvenience

Levels of statutory liability

3. 'So far as is reasonably practicable'

The most common level of duty within health and safety.

If the risk is small compared to the time, cost and effort, required to further reduce the risk, then no action is required

Duty requires judgement on the part of the employer

Risk V *Cost

* Time, cost and effort

Common law Duty of Care

- Provide a safe place of work including access and egress
- Provide safe plant and equipment
- Provide a safe system of work including
- Provide safe and *competent fellow workers
- Provide adequate levels of supervision, information, instruction and training (IITS)

Employers duties under common law are often mirrored in statute law. Employers are responsible for the actions of their employees known as '*vicarious liability*'

Corporate Manslaughter Act 2007

Introduced a new offence where there can be a finding of guilt as a result of serious management failures

- Employers can be prosecuted if someone has been killed at or by work because of a failure in how the company's activities are managed or organised amounting to a gross breach of duty.
- Companies need to show that they have taken all reasonable steps to ensure the health and safety of those who might be at risk.
- The legislation is a corporate responsibility and not, as originally perceived, about individual responsibility.
- Individuals cannot be prosecuted and there is no risk of a prison sentence under the legislation

Employee Duties

Section 7: To take reasonable care of their own health and safety and that of others.

To co-operate with the employer and others to enable them to fulfil their legal duties.

Section 8: Not to intentionally interfere with or misuse anything provided in the interests of health, safety or welfare. *(sometimes known as the 'horseplay section')*

Management of Health and Safety at Work Regulations 1999

Regulation 3: Risk Assessments

- ✦ Employers must assess the health and safety of employees and non-employees, to identify necessary measures to be taken.

The assessment must be **protective** and **preventative**



Management of Health and Safety at Work Regulations 1999

Extend employees obligations

Employee Duties Regulation 14

Use any equipment or substances in accordance with training or instruction

Report to the employer any serious or imminent danger any shortcomings in the employer's health and safety arrangements

Management of Health and Safety at Work Regulations 1999

Health and safety training should be given to employees:

- ✧ At commencement of the job
- ✧ After any changes to the job including promotion
- ✧ After any changes to organisational procedures, premises and plant
- ✧ After an accident or near miss in the workplace
- ✧ After any changes in the legislation
- ✧ As required under the legislation e.g. first aid training



Procedural methods to ensure adequate health and safety standards of contractors

- Ensure all contractors are given induction training
- Ensure regular communication and co-operation between both client and contractor
 - Ensure strict compliance with risk assessments, method statements, and permit to work systems (PTWS)
- Ensure strict compliance relating to maintenance and emergencies procedures including fire evacuation and first aid
- Monitor to ensure compliance with all standards of health and safety



Training & Competency is a legal requirement

Training cards prove training & competency
SOMETIMES!!!!!!

Industry imposes

Contractors impose

Clients impose

Construction (Design and Management) Regulations 2015

The Construction (Design and Management) Regulations 2015 came into force on 6 April 2015, replacing CDM 2007.

It describes the law that applies to all construction projects, from concept to completion, what each duty holder must or should do to comply with the law to ensure projects are carried out in a way that secures health and safety

All projects must have: workers with the right skills, knowledge, training and experience with contractors providing appropriate supervision, instruction and information

Project where more than one contractor is involved (domestic or non-domestic) must appoint a principal designer and principal contractor and a health and safety file must be prepared or revised

Six duty holders



Industry guidance for
Clients

The Construction (Design and Management)
Regulations 2015



Industry guidance for
Designers

The Construction (Design and Management)
Regulations 2015



Industry guidance for
Principal designers

The Construction (Design and Management)
Regulations 2015



Industry guidance for
Principal contractors

The Construction (Design and Management)
Regulations 2015



Industry guidance for
Contractors

The Construction (Design and Management)
Regulations 2015



Industry guidance for
Workers

Construction (Design and Management) Regulations 2015

Definition of a Contract

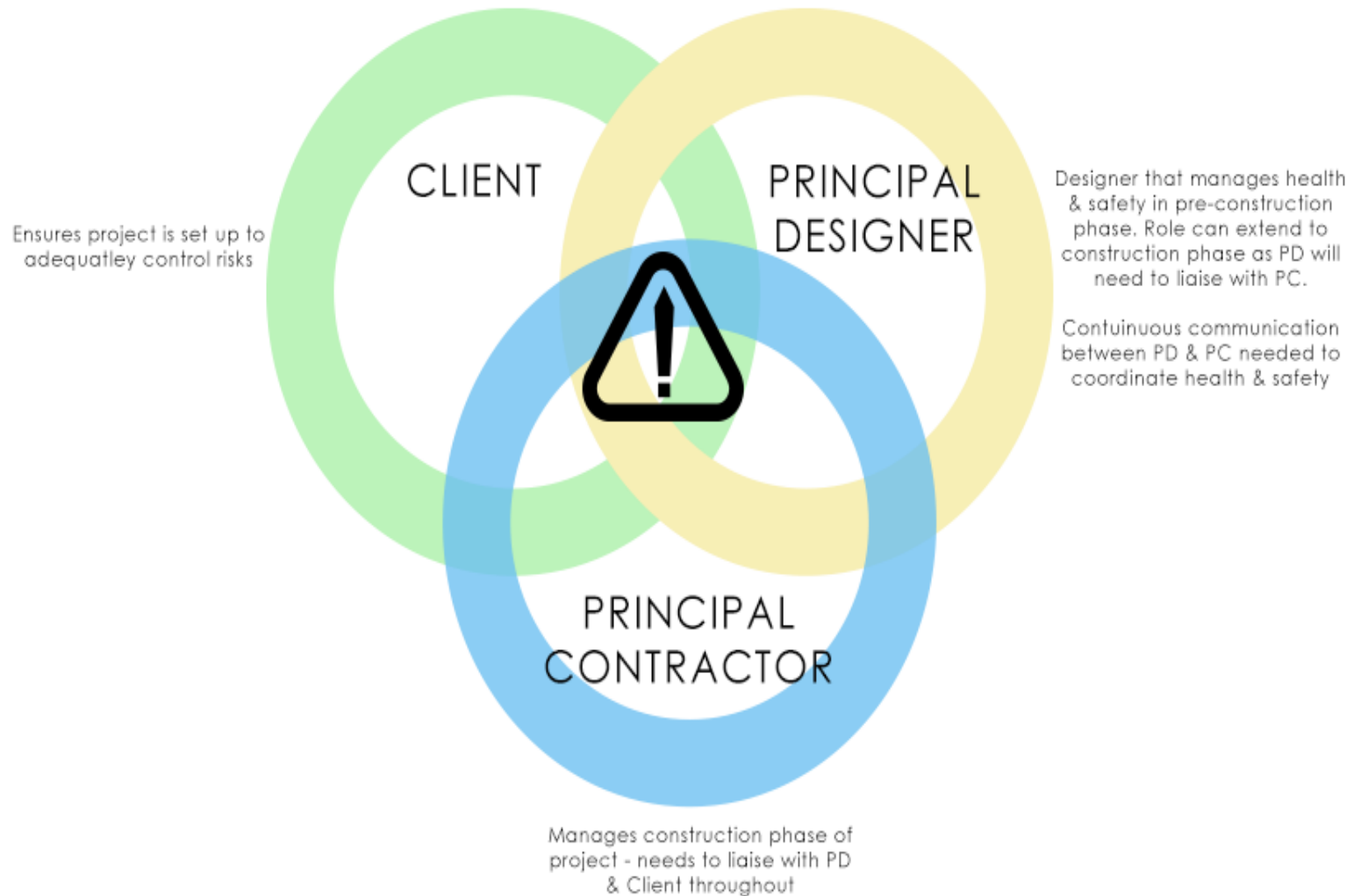
- *'A contract is a legally binding agreement between two or more persons'*
- Legally binding means the agreement will be enforced by the courts.
- Breach of a legally binding agreement allows the claimant party to claim a legally enforceable remedy from the offending party.
- This may be in the form of damages or an instruction to perform.

Construction (Design and Management) Regulations 2015

NEC 3 KEY PLAYERS

- NEC 3 sets out the various obligations, duties and powers of:
 - Employer
 - Contractor
 - Project Manager
 - Supervisor
 - CDM Trumps NEC forms of contract.

Construction (Design and Management) Regulations 2016



Construction (Design and Management) Regulations 2015

'Notifiable' projects:

If the construction work:

is planned to last longer than 30 days, with more than 20 workers working at the same time, or,

is planned to involve more than 500 person-days of construction work then specific details of the project have to be notified to the HSE by the Client via the principal designer F10 rev form



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Any Questions?