

project safety matters

aps association
to project
safety

Issue 06 | Summer 2018

The voice of good practice in design & construction,
health and safety risk management

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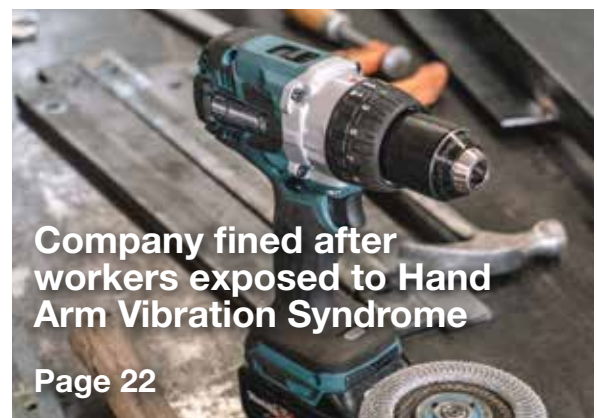
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NATIONAL CONFERENCE & CDM AWARDS 2018
 12 SEPTEMBER, STOLLER HALL, MANCHESTER



CEO's foreword

Welcome to our new look members' magazine jammed full of construction industry news.

Whoever it was that said the summer was a slow season cannot have been thinking of the design and construction health and safety sector. We've information about a new and exciting link that the Association for Project Safety has with the Chartered Association of Building Engineers (CABE). Our new memorandum of understanding with them will see real benefits for members of both organisations.

We also have news from our friends at the Federation of Master Builders as they launch a scheme to see their skilled tradesman properly recognised giving clients and customers confidence they'll not be handing over hard-earned cash to cowboy builders. We support this initiative as it is not just good consumer sense but ought to help deliver health and safety benefits too.

Author: Leslie McLeod



And the unscrupulous end of the construction sector also looms large in a piece about a new report from the All Party Parliamentary Group (APPG) on excellence in the build environment. The group has been looking at problems in the new homes market. Members have expressed mounting concerns about the quality of new builds and have laid out a number of suggestions for ways home buyers can get help when things go wrong. As a purchaser of a new house myself I can testify to the difficulty there can be getting developers to take so-called snagging issues seriously so I'd be interested to hear your views on whether or not you think the APPG's suggestions might work.

But that's not all we're keen to hear about. There's news from Ray Bone's group that has been considering CDM advisory services. It is quite clear there is still a great deal of confusion out there with clients keen to better understand their responsibilities and liabilities. And that, of course, brings us to some cautionary tales of health and safety failures as well as sound advice when you find yourself dealing with the insolvency of a major partner or client.

Finally, there's also a farewell from Bobby Chakravarthy as he steps down after his two-year stint as President. He is making a last shout out for safety and a rallying cry to



As the collapse of the Murandi Bridge in Genoa testifies the sloping-shoulders attitude to design, procurement, build and management can have catastrophic results.

ensure it is never something to be put on the back burner or parcelled on from one person to the next. As the collapse of the Murandi Bridge in Genoa testifies the sloping-shoulders attitude to design, procurement, build and management can have catastrophic results.

I hope you like the new design but, let's be honest, it's the content that matters so please let us know

The new partnership aims to enhance the professionalism of building construction, management and engineering as well in the United Kingdom. The memorandum of understanding (MOU) - signed at the end of June - means members of both professional organisations are able to share and build on the expertise and experience of colleagues across the construction sector to improve their skills and knowledge.

Dr Gavin Dunn, CABE CEO said:

"The signing of this MOU represents a great opportunity to bring the relevant and competent skills of both organisations together to offer a joined up approach to representation of our industry.

It clearly shows that we recognise the importance of health, safety and well-being at the heart of all we do, not only in the construction industry but in the design and operational aspects of the built environment. These actions allow us to ensure a valid and meaningful contribution to society with a strengthened voice."

Bobby Chakravarthy, APS President said:

"Safer buildings and construction sites must be a priority for the UK construction sector. And, at the heart of delivering the improvements we all want to see, is the need to share the vast knowledge and experience held within the professions across the sector. I believe today's ground-breaking agreement between the Chartered Association of Building Engineers and the Association for

Safer by co-operation

A new agreement between the Chartered Association of Building Engineers [CABE] and the Association for Project Safety [APS] will help ensure British buildings are safer and better designed.

Author: CABE/APS

Project Safety will help members access a deeper pool of skills and information and help ensure everyone can keep up to date with changes and developments in the UK construction industry."

Part of the impetus behind the move is the realisation that after Grenfell, together, organisations within the built environment could and should be doing more to equip their own members help prevent future disasters. Even without those challenges the construction industry recognises that, in a rapidly evolving and ever-changing environment, it is vital that all professionals have a route to stay up to date as well as gaining a broader understanding of the challenges facing other professionals working alongside them.



Safer buildings and construction sites must be a priority for the UK construction sector.

The CABE is a leading body for professionals specialising in the design, construction, evaluation and maintenance of buildings. Its members practice across the United Kingdom, mainland Europe and around the world, and work in both the private and public sectors. The CABE provides the prime qualification of Building Engineer, a title that exactly reflects the professional expertise of members.

The agreement means that members of CABE and APS will be able to access conferences, training courses and CPD events organised by both associations on the same basis and for the same price as members of the other organisation. CABE and APS will exchange their publications allowing members to keep up to date with current developments.

Members of either organisation, meeting the membership requirements of the other, will be able, and encouraged, to apply for membership of the other body.

The MOU will run, initially, for two years from 26 June 2018.

Book your discounted CABE event: <https://www.aps.org.uk/cabe-regional-conferences-2018-discount-aps-members>

Read about and book for the first joint event between APS and CABE on page 30.

Find more about CABE: www.cbuilt.com



Government: Housing Ombudsman will secure redress for homebuyers

Proposals to give purchasers of new homes confidence in the quality of the properties they are buying were published in June by the All Party Parliamentary Group (APPG) for Excellence in the Built Environment. The group's report, 'Better redress for homebuyers' considers recommendations that the government should establish an ombudsman with binding powers to secure repair and redress for victims of shoddy workmanship and other issues relating to the build and sale of new homes.

Author: Staff writer



The APPG said the ombudsman should consider disputes between builders and buyers for the first two years mirroring the period of house-builders' liability for defects.

The Secretary of State for Housing Communities and Local Government announced in February there would be a consultation on ways to help homebuyers. This included proposals that, if enacted, would create a new homes ombudsman and require house-builders to join the scheme.

The APPG supported creation of an ombudsman and recommended the scheme should be:

- **Independent, free and fast** – giving buyers open access to rapid redress. The group felt the scheme should also help cut complaints by promoting defect-free homes;
- **Clear and easy** – providing a one-stop-shop for all problems in the residential sector so consumers knew how and where they could seek redress;
- **Comprehensive** – with complaints judged against a code of practice covering the building and selling of new homes (except where covered elsewhere);
- **Mandatory** – all firms building and selling new homes would have to join the ombudsman scheme

in order to trade. The APPG recommended that all bodies involved in building and selling new homes should work together to create the code of practice the ombudsman would then use when adjudicating complaints;

- **Powerful** – with the ability to award successful complainants by as much as £50k. The group also suggested all judgements should be published;
- **Speedy** – with time limits on how long investigations should take so buyers would not be left hanging on for ages waiting for resolution; and
- **Fully Funded** – by a levy on house-builders.

The APPG said the ombudsman should consider disputes between builders and buyers for the first two years mirroring the period of house-builders' liability for defects. The group also suggested warranties should be reviewed to ensure they are fit for purpose and because there is evidence they were widely misunderstood by consumers. The group also wanted there to be a minimum standard for compliance inspections as the current system,

where inspections are primarily for the benefit of underwriters and lenders, did not provide consumers with sufficient comfort their new homes were properly built.

The report follows the APPG's earlier paper, 'More Homes, Fewer Faults', which considered how the toxic cocktail of low market competition, skills' shortages and the fact home builders and developers have much more power in the transaction than purchasers combined to short-change home buyers and how this could be redressed.



Morandi Bridge: a case of passing the safety buck?

The recent collapse of the Morandi Bridge in Genoa highlights persistent health and safety risk management issues where infrastructure projects go badly wrong.

Author: Staff writer



The viaduct was built in the 1960s and has been carrying around 25 million vehicles every year. Concerns have been expressed for some time about the continued safety of the Bridge and it is reported that that part of Liguria has been waiting for some time for a relief road around Genoa to take heavy traffic away from the viaduct. A 12 month state of emergency has now been declared as alternative routes will need to be found to take traffic from the key sites of Milan and Genoa to Savona and Genoa Airport.

While it is too early to understand fully the reasons for the collapse of the viaduct there seem to have been systemic failings with the build and maintenance of the project with no single party prepared to own up to responsibility for the integrity of the structure. Tragically warning signs here, as in so many other cases, seem to have gone unheeded. There are, so far unproven, accusations

of organised crime influencing the quality of materials used at the outset. Political parties appear to be blaming each other for electoral gain rather than pulling together to find a solution to what, in Italy, would seem to be endemic issues with infrastructure.

There are obvious parallels with Grenfell where similar warnings were ignored. But this, and other infrastructure failings, have an obvious lesson even before actual accountability can be attributed: people pass the buck when it comes to Safety. If nothing else APS must stand up not just for standards of regulation and training but for there to be a firm duty to take Safety seriously.




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APS member's survey: CDM advisory services

APS members are providing a huge amount of support to construction duty holders who don't have a clear understanding of their legal duties. These are the results of the survey we carried out in June amongst APS members which also shows that members have seen an increase in demand for support services since the 2015 CDM regulations came into force.

Author: Colin Seditas

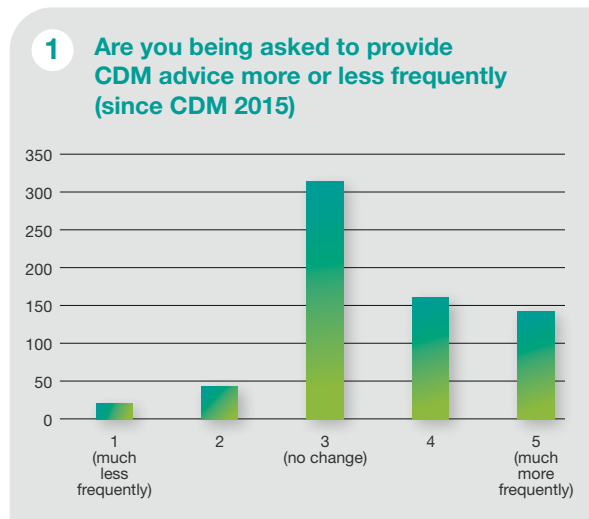
The survey, which went to APS members in June, was put together by APS' CDM Advisory Services Working Group. The Group is looking at the nature of advice and services currently being offered by members and is mapping out duty holder requirements. It seems clear to APS members that duty holders are calling out for help.

The response to the survey was very strong with nearly 1,000 members providing feedback on the type of advice and services being delivered to the construction industry.

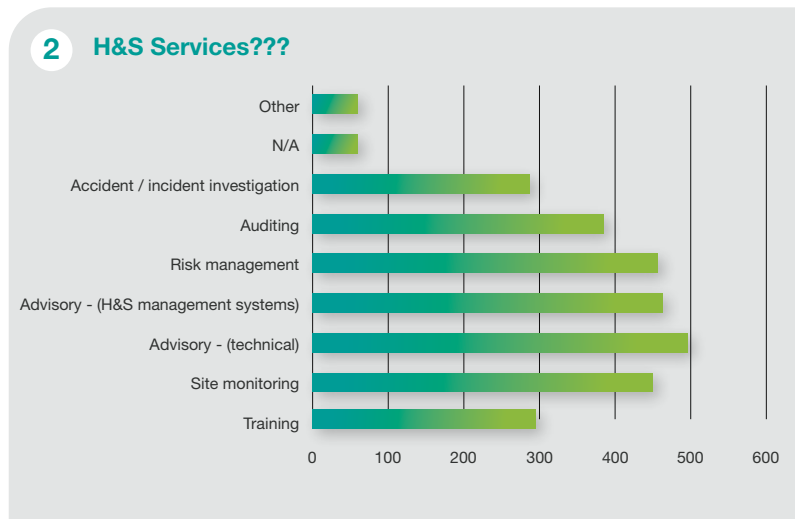
Results

CDM Advisory Services

We asked respondents if they were being asked to provide CDM advice more or less frequently since CDM 2015?



APS members are very active. We estimate that you provided CDM advisory services on around 16,000 projects in the 12 months before the survey (the average number of being 21)*. 44.5% of respondents reported an increase in demand for CDM advisory services since CDM2015 came into force.



Nearly 90% of respondents provide advisory services to clients. The majority of respondents also provide services for principal designers, designers and principal contractors (more than 60% of respondents for each duty holder).

When we asked members to give an indication of the mix of services they provide:

- 65% of respondents stated that they regularly provide services to clients
- almost 46% regularly provide services to principal designers
- 44% regularly provide services to principal contractors
- 37.7% regularly to designers

The most common types of services provided are:

- 70%: technical advice
- Over 60%:
 - Site monitoring
 - Health and safety management advice
 - Risk management advice

Your main areas of work

We took the opportunity to find out about your main areas of work. The largest groups of respondents reported regular work in construction health and safety and principal design work. This is followed by a significant number regularly providing general health and safety services.



The response to the survey was very strong with nearly 1,000 members providing feedback.

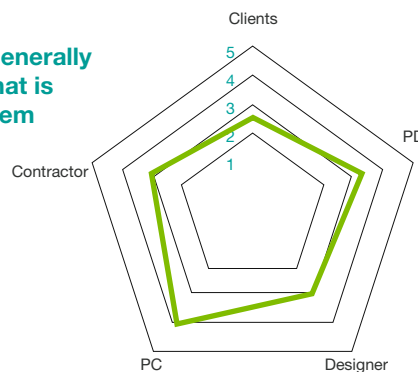


You see principal contractors as the exception among duty holders as they are relatively informed about their health and safety duties.

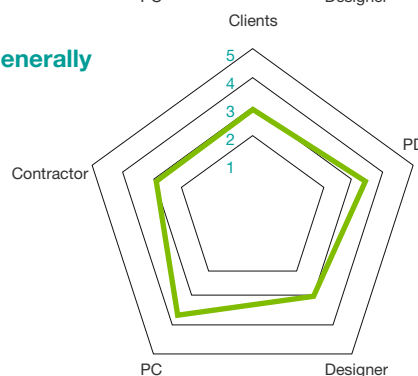
Your opinions on duty holders' awareness and performance

You see principal contractors as the exception among duty holders as they are relatively informed about their health and safety duties and better able to achieve good standards. Your attitude to other duty holders is more ambivalent with more negative feelings about clients and designers.

Duty holders generally understand what is expected of them
(1 = disagree, 5 = agree)



Duty holders generally achieve good standards
(1 = disagree, 5 = agree)



When the CDM 2015 regulations came into force, HSE referred to a model of "increasing maturity" in relation to the principal designer role. This predicted a gradual withdrawal of the need for support by around 2020. This model appeared in Issue 3 of Project Safety Matters and is repeated below (see Figure 1 from page 14 of PSM issue 3, 10/2017).

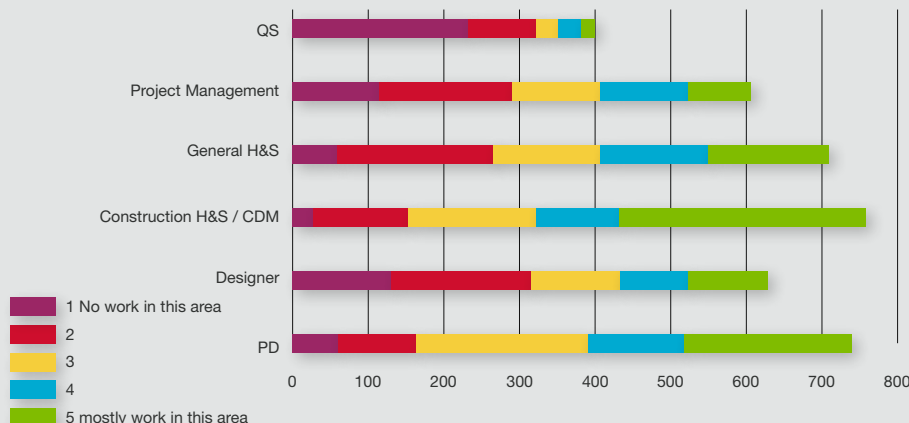
Conclusion

Your responses certainly appear to confirm the commonplace need for expert support for principal designers, and other duty holders. It is important to acknowledge that this is a snapshot of opinion from a very particular group of respondents since APS members are a "highly informed" section of the industry and given the nature of our work, it is unsurprising that we see the need for support services.

The Advisory Services Working Group

The working group is looking to survey the wider construction industry on this subject, working with our partner organisations. Keep an eye out for further updates.

3 Work Activity



Nearly 80% of builders and consumers support licensing construction, says FMB

Almost 80% of builders and home owners are calling on the Government to introduce a licensing scheme for the UK construction industry to stamp out rogue traders once and for all, according to the Federation of Master Builders (FMB).

Author: Federation of Master Builders

Almost 80% of builders and home owners are calling on the Government to introduce a licensing scheme for the UK construction industry to stamp out rogue traders once and for all, according to the Federation of Master Builders (FMB).

In July the FMB published an independent research report by Pye Tait entitled 'Licence to build: A pathway to licensing UK construction', which details the benefits of introducing a licensing scheme for the whole construction industry and puts forward a proposal for how it could work.

In addition new consumer research undertaken by the FMB reveals the impact poor quality building firms are having on consumers and demonstrates that most home owners support the introduction of a mandatory licensing scheme. Key results from both pieces of research include:

- 77% of small and medium-sized construction firms support the introduction of licensing to professionalise the industry, protect consumers and sideline the cowboys;
- 78% of consumers also want to see a licensing scheme for construction introduced;

- Nearly 90% of home owners believe that the Government should criminalise rogue and incompetent builders;
- Over half of people (55%) who commission home improvement work have had a negative experience with their builder.

Commenting on the research report, which was launched at a high profile event in the House of Lords on the afternoon of Monday 2nd July, Brian Berry, Chief Executive of the FMB, said: "The vast majority of builders and home owners want to see the construction industry professionalised and it is time for the Government to act. It's unacceptable that more than half of consumers have had a negative experience with their builder. However, we shouldn't be surprised by this given that in the UK, it is perfectly legal for anyone to set up a building firm and start selling their services without any prior experience or qualifications. This cannot be right given the nature of the work and the potential health and safety risks when something goes wrong. In countries like Australia and Germany, building firms require a licence and we want to see the UK Government regulate our industry in a similar manner."

Berry continued: "Aside from the obvious health and safety benefits, the advantages of a licensing



The vast majority of builders and home owners want to see the construction industry professionalised and it is time for the Government to act.

Brian Berry

scheme are manifold. Licensing would bar from the industry the very worst firms operating in the construction sector. Consumer protection would increase and with it, the appetite among home owners to undertake more construction work. We also believe that if we can improve the image of the industry through licensing, young people, parents and teachers will have a more favourable impression of our sector and therefore be more likely to pursue, or recommend, a career in construction. Over time, this would gradually help ease the construction skills shortage we currently face. For too long, the very worst construction firms, most of which undertake private domestic work, have been giving the whole sector a bad name. So that's why this scheme should be of interest to the whole sector and not just small local builders."

Berry concluded: "In terms of how the scheme might work, it needn't be too costly or bureaucratic. Our report draws on the experience of experts from across the construction industry and puts forward a clear proposal. We are suggesting that the scheme covers all paid-for construction work by firms of all sizes, not just those working in the domestic sector. Fees should be tiered and could start at as little as £150 every three to five years, with the largest contractors paying around £1,000 over the same period. In terms of



how it's governed, the licence should be administered by a single authority with a broad range of scheme providers sitting underneath. We are now keen to reach out to the whole construction sector to get their input on the proposal. If we can demonstrate broad support for this approach, we are optimistic that the Government will take it forward."

This article was originally published by the Federation of Master Builders

More information:

Federation of Master Builders: www.fmb.org.uk.
Independent report by Pye Tait:
'Licence to build: A pathway to licensing UK construction'

The research report was based on interviews with 20 industry and Government stakeholders and quantitative research among FMB members. Almost 500 (491) construction SMEs were surveyed from across the UK in the weeks commencing 9th and 16th April 2018. Read the report: www.fmb.org.uk/licence-to-build-report.

About the independent consumer research by OnePoll:
The FMB's research into the appetite for a licensing scheme among home owners was carried out in the week commencing 4th June 2018. The survey was carried out by the research company OnePoll and the results are based on responses from 2,000 home owners across the UK.



News in Brief

Legal and policy news from around the UK

Shape up or fork out

Ignoring a prohibition and improvement notice has resulted in a firm being fined £37,500 and ordered to pay costs of £10,000. Southwark Crown Court heard how Awad (UK) Ltd, under the control of its director Andrzej Wilk, had ignored a prohibition notice issued in 2016. Then people were found at serious risk of fall and injury.

The subsequent HSE investigation found workers were still at risk and no adequate and sufficient welfare facilities had been put in place. Awad (UK) Ltd of Fourth Way, Wembley, Middlesex pleaded guilty to breaching Regulation 6(3) of the Work at Height Regulations 2005 and Section 21 and 22 of the Health & Safety at Work etc Act 1974. Director Andrzej Wilk also pleaded guilty to breaching Section 37 of the Health and Safety at Work etc. Act 1974 and was individually fined £7,500 and ordered to pay costs of £10,000.



Plan - don't pay out

Poor planning resulted in a £32,000 fine with costs for a company installing biomass heating systems and photovoltaic solar systems on a farm in Yorkshire.

Duncan Plumbing Heating and Electrics Ltd of Rudgate Business Park, Tockwith, North Yorkshire pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974 after a worker fell around two metres through a fragile cement sheet when he went on to a roof as the ladder provided was too short. Beverley Magistrates said the firm had failed adequately to plan the installation of the heating system and the associated work at height.

The investigation also found the company had not provided suitable equipment such as a mobile elevated work platform, edge protection, crawl boards, a roof ladder or scaffolding. The worker suffered injuries including broken bones in the left ankle.



Ignoring risk results in sanctions

A property company has been sentenced after failing to conduct an asbestos survey before starting refurbishment work. Huntingdon Magistrates' Court fined Thistlemoor Healthcare and Management Ltd £15,000 and ordered it to pay costs of £1,805.60 when the firm failed to carry out an asbestos survey for work on two properties, one of which was part of a medical centre in Peterborough.

The HSE investigation found the company had not carried out the necessary checks before it did work likely to disturb asbestos at two properties. The company was found guilty of breaching Regulation 5 of The Control of Asbestos Regulations 2012.



APS National Conference 2018

This year's conference takes place on the 12 September at Manchester's Stoller Hall during the day. It is followed by the APS annual CDM and student design awards in the early evening. If you book for the conference, you are also entitled to attend the awards for free. If you wish, you can buy tickets for the awards only.

Opportunities in Construction – challenges for design & construction health & safety risk management

**The Stoller Hall, Hunts Bank, Manchester, M3 1DA
Wednesday, September 12, 2018 at 09:00**

The construction sector is facing unprecedented challenges bringing increased demands for the design and construction health and safety profession and opportunities for its practitioners. This year's APS annual conference will look at how the sector is shaping up and ways it can rise to the challenges set out in the government's Construction 2025 strategy.

The line-up of top industry experts and up to the minute topics will focus on the industry's importance to the UK economy, its role in major infrastructure and necessary changes to regulation and practice in the wake of the Grenfell disaster.

The conference will also discuss the particular health and safety challenges and opportunities arising from large scale infrastructure projects.



The line-up of top industry experts and up to the minute topics will focus on the importance of the industry's importance to the UK economy

It will bring together leading experts from energy, digital infrastructure, building management, housing and commercial property management to consider the future from a range of perspectives, including those of SMEs.

Book your conference ticket (and entry to the awards) now by going to:
www.aps.org.uk/events/aps-national-conference-2018

NATIONAL CONFERENCE & CDM AWARDS 2018
12 SEPTEMBER, STOLLER HALL, MANCHESTER



Programme

APS Annual Conference 2018 Meeting the Challenge

08:00	Registration Opens	
09:15	Welcome	Bobby Chakravarthy - APS
09:30	Keynote Address: Safer together	David Taylor - CABE
Morning Session 1: Life after Grenfell		
10:00	Legislation, regulation and the industry response to Grenfell	Graham Watts - CIC
10:30	Some legal perspectives on Grenfell	Gillian Birkby - Fladgate LLP
11:00	Refreshments & exhibition	
Morning Session 2: Infrastructure & Risk		
11:30	Building homes for all: managing targets while maintaining health & wellbeing	Shelagh Grant - Housing Forum
11:50	Delivering strategic safety for major projects in the nuclear industry	Philip Isgar - Sunbeam Management Solutions
12:10	Benefits of facilities management in construction	Robert Greenfield - BIFM
Pre-lunch Session: Valedictory & Acknowledgements		
12:30	Presidential Hand Over Presentation of Honorary Awards	Bobby Chakravarthy - APS
12:45	Lunch & exhibition	
Afternoon Session 1: New Faces & New Technologies		
14:00	Presidential Address: build more, build fast, build safe	Stella Saunders - APS
14:15	BIM: PAS1192 Part 6	Peter Nicolas - ARUP Nick Nisbet - AEC3
14:45	Refreshments & exhibition Afternoon Session 2: SME Panel	
15:00	Panel Discussion: The panel will explore issues facing the wider industry. The expert team will open with a couple of minutes each as they set out the key challenges they believe the construction sector is facing. This will be followed by questions from the floor.	Chair: Stella Saunders - APS David Taylor - CABE Robert Greenfield - BIFM Patrick Manu - School of Mechanical, Aerospace and Civil Engineering, The University of Manchester
15:30	Perceptions, attitudes and behaviours of smaller businesses in the construction sector	Sonya Butler - Health & Safety Executive
16:00	Summary & Round-up	Stella Saunders - APS
16:15	Conference ends Comfort break for those attending the Awards in the evening.	

Programme

APS Annual CDM & Student Awards

16:45	Introduction	Lesley McLeod - APS
16:50	Special Guest Speaker LIFT: the secret to exceptional communication	Kevin Taylor - Crimson Peak
17:20	Presentation of Awards	

Reception

18:00	Reception
20:00	Close



The APS National CDM and student design awards

**The Stoller Hall, Hunts Bank, Manchester, M3 1DA
Wednesday, September 12, 2018 at 5pm (finishes at 8pm approx).**

What are the APS National CDM and Student Designer Awards about? In the wake of Grenfell, and with Brexit around the corner, there has never been a better time to make a positive contribution to the construction health and safety

industry. The APS awards are about celebrating inspirational good practice in construction health and safety, as well as providing others with a benchmark of excellence for others to work towards. Applying to the APS awards provides a rare opportunity for applicants to demonstrate the exceptional work they have done over the past year, and to act as a beacon of professionalism, helping to drive up standards across the industry.

The Shortlist For the CDM Awards

Category: Principal Designer of the Year

NPS Leeds Ltd
Faithful+Gould
Safety for Design Limited & Prosurv Consult Limited

Category: CDM Consultant of the Year

Safer Sphere CHS Ltd
Faithful+Gould
Ateb Consult Ltd
Rider Levett Bucknall

Category: Client of the Year

Earls Court Property Limited
Health, Safety & Wellbeing Initiative of the Year
Thames Water
Cowry Consulting
Construction Logistics and Community Safety

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Secondary mesothelioma case results in £247,000 damages

A landmark court ruling may force employers to pay damages for secondary exposure to asbestos. The Court of Session in Scotland recently ruled that Babcock International Ltd had been negligent in failing to reduce the risk Adrienne Sweeney faced from secondary exposure to asbestos. Mrs Sweeney was found to have contracted fatal mesothelioma from close contact to her husband, William, and his work clothes, as insufficient care had been taken to protect her from the dangers of asbestos beyond the workplace.

Author: Lesley McLeod



Workers may have been bringing the potentially lethal fibres home due to inadequate changing and showering facilities at work forcing workers to go home covered head to toe in dust.

In the case - dubbed, 'Death from a loving cuddle' - the court awarded damages of £247,000 to Mrs Sweeney's surviving family. The court ruled she had died as a result of close contact to her husband and following years of laundering his contaminated workwear. Mr Sweeney had worked for Babcock's - now Babcock International Ltd - in the 1960s and 1970s as a fitter in the firm's boiler making factory in Renfrew. Evidence from former workmates said it was common for workers to go home in overalls covered in asbestos dust. The ruling said the company should have taken greater care to ensure there was no risk from secondary contamination.

The case of Maguire v Harland & Wolff established that secondary contamination from asbestos was unknown before 1965. But the case still raises concerns for the construction sector as the scale of potential pay outs remains

unclear. A mesothelioma diagnosis resulting from secondary asbestos exposure may take years to emerge. However, the HSE estimates that, of the nearly two thousand cases of mesothelioma diagnosed every year, around 300 of these could be women exposed to secondary asbestos at home.

Workers may have been bringing the potentially lethal fibres home due to inadequate changing and showering facilities at work forcing workers to go home covered head to toe in dust. Shaking out overalls before laundering caused the fibres to become airborne in the home but they could even be transferred to the clothing of other family members during the wash.

The latest ruling means more victims, and their surviving relatives, may seek redress for the pain and suffering that has been endured. The Sweeney case is important as



it establishes without doubt that employers' liability can extend to victims who have had no direct exposure to asbestos.

The case was brought by Kay Gibson, Jan Sweeney and William Sweeney following Mrs Sweeney's death at 75 years on age in August 2015.

Further reading:

Harper McLeod - www.harpermacleod.co.uk/hm-insights/2016/june/secondary-exposure-access-to-justice-for-the-women-children-who-suffer-from-asbestos-related-diseases/

HSE: Mesothelioma in UK 2014 - www.inspectas.co.uk/wp-content/uploads/2015/10/HSE-mesothelioma-statistics-Oct20151.pdf

Scottish legal news - www.scottishlegal.com/article/legal-first-as-family-of-mesothelioma-victim-awarded-250-000-damages-over-death-from-secondary-exposure-to-asbestos

“Administration” is one of the ways in which a company can deal with the fact that it is struggling to pay its debts as they fall due. The purpose of putting a company into administration is to allow it to keep trading for a short period, but with a moratorium, i.e. a restriction on any of the creditors bringing or continuing proceedings against the company for a debt. Sometimes this can allow the company to trade its way out of its financial difficulties, but the question arises; how does CDM apply if a company that is the client under the CDM regulations for a particular project goes into administration?

The first thing to recognise is that the procedure for administration arises under the Insolvency Act, whereas CDM is subsidiary legislation under the Health and Safety at Work Act. Although in theory it is all one seamless garment in practice different pieces of legislation do not always fit together very well. Naturally the Insolvency Act is dealing with all the complex financial implications of a company or individual becoming insolvent and not how that affects an ongoing construction project.

Picking our way through the relevant legislation we can find some answers. For instance does the administrator become the CDM client, or is that still the company which was originally acting as client on a particular project? Administrators are technically agents of the company and they have a duty to behave fairly and honourably carrying out their functions in the interests of the creditors as a whole. Their job is to manage the company taking custody and control of all

Insolvency and CDM: What happens if the client goes into administration

Insolvency is, unfortunately, much in the news at the moment and APS has recently held a webinar on this subject. APS members can listen here: <https://www.aps.org.uk/webinars> One of the topics which came up at question time was the role of the administrator in relation to an ongoing project.

Author: Gillian Birkby of Fladgate LLP

the property and assets, but they are also entitled to do “anything necessary or expedient for the management of the affairs, business and property of the company”.

In practice, an administrator is primarily involved in managing a company’s assets and not in the day to day running of the company. They do not become the company itself even though they have close



control over it. So the company itself remains the CDM client and often the administrator does not become involved in that.

This leads to another question: if something goes wrong in health and safety terms is it the company or the administrator who will face a potential prosecution? Administrators have rights and duties in their role as officers of the court, but there will also be a contract between the administrator and the struggling company which will state that the administrator takes no personal liability for the performance of their functions.

However, if an administrator acts in clear breach of duty - for instance if they are fraudulent - or in breach of fiduciary duty, proceedings can still be brought against them. Also, if the court agrees, it would be possible for criminal proceedings to be brought against the company itself for a breach of health and safety legislation. The moratorium does not protect the company if the court considers that there are reasons why a prosecution should go ahead, e.g. that it is in the public interest to do so.

There is a further question: is the administrator obliged to communicate with other CDM duty holders? If the administrator is taking a close interest in an outstanding construction project, i.e. acting as CDM client, they must do so. However if the directors of the company are still involved in the management of a construction project, they would be the most appropriate people to communicate with other duty holders.

Whenever a company descends into financial difficulties, the situation can quickly become extremely difficult, with competing and sometimes impossible demands being made on the directors. However, the duty to act as CDM client does not fall down a black hole just because a company goes into administration. The company, by whatever means, must still act as a responsible client for CDM purposes if a construction project is continuing.





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Company fined after workers exposed to Hand Arm Vibration Syndrome

Failure to protect staff from Hand Arm Vibration (HAV) has cost Nordam Europe Limited £400,000 judges at Cardiff Crown Court have ruled. The firm will also have to pay costs of £39,620.92. Over a twenty-two year period the court heard how around a hundred employees of the company, which maintains and repairs aircraft components, could have been exposed to risk with around thirty potentially suffering serious harm.

Author: Staff writer

The Health and Safety Executive (HSE) found that employees used a range of hand-held vibrating tools including orbital sanders, rivet guns, grinders and drills but suitable assessments of work activities had not been implemented or additional procedures to cut the risk of harm put in place. The investigation found the company failed in their duty to implement a safe system of work. Employees should also have undergone suitable health surveillance to identify symptoms at an early stage of the disease. This would have prevented it from progressing to a disabling condition.

HSE inspector Janet Hensey said: "This was a case of the company completely failing to grasp the importance of HAVS health surveillance. If they had understood why health surveillance was necessary, it would have ensured that it had the right systems in place to monitor.



APS Regional Elections 2018

By now you should have received your electronic ballot to vote committee members onto to your APS regional committee. You will only receive an electronic ballot paper if there are nominees standing in your region. Please visit www.aps.org.uk and then click on 'Regions' to see if your region should have received a ballot paper.

Author: Rosalind Grozier

By now you should have received your electronic ballot to vote committee members onto to your APS regional committee.

You will only receive an electronic ballot paper if there are nominees standing in your region. Please visit www.aps.org.uk and then click on 'Regions' to see if your region should have received a ballot paper.

Not received a ballot and should have?

Email Rebecca Eunson at rebecca.eunson@aps.org.uk or call her on 0131 442 6604

The election process

Opened: Monday 3 September

- A ballot paper is sent out electronically
- You can only vote for your region
- You can vote for as many candidates as you want in your region. (A candidate must have 10 votes or more to be successfully elected onto their regional committee).

Closes: Wednesday 19 September

What then?

The results of the election will be published toward the end of September.

The new committees will be in place by 1 October 2018

More information

If you would like any more information about voting for your committee member, please email Rebecca.Eunson@aps.org.uk If you would like information about your regional committee, you can get in touch by visiting here and going to your region:



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For further information contact:

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Training Development Manager

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In early 2018 the Construction Industry Council (CIC) launched a survey on behalf of the Ministry of Housing, Communities and Local Government Industry Response Group (IRG) supported by Builduk and CPA to gather data on the impact of insurance on the sector in the wake of the Grenfell Tower fire.

Since it is one year on from the Grenfell tragedy it is now essential to run an updated survey to capture all the renewals which have taken place since. This is so that industry and government understand the extent of the problem and its possible impact on the capacity of the sector.

CIC Chief Executive, Graham Watts said: "We need widespread engagement to get the fullest picture possible about the effect that the Grenfell Fire has had on industry capacity and costs. It is important that every business participates even if you may have responded to the earlier survey."

Assessing the impact of the Grenfell Tower tragedy on professional indemnity insurance

Please spare a few minutes to take part in an important survey from the CIC

From the CIC

The first survey sought to understand the extent to which terms for professional indemnity and other types of insurance are being revised in the aftermath of the fire; and whether this would make it difficult for some organisations to continue to be involved in areas deemed higher risk.

In this second survey, new questions have been added to enable a more detailed picture so even if you have filled it out before, please do so again. All responses are completely anonymous.

Go to: www.surveymonkey.co.uk/r/CICResponse



National CPD: Autumn 2018

CDM procurement and design

This is an inclusive event – no charge for: Fellows, CMAPS, IMaPS, AaPS and Student members

Author: Staff writer

This autumn's national CPD series kicks off on in late September with a series of afternoon sessions in all APS regions, finishing up in Belfast in November.

Matt Harrison from Project Support Services will talk about the impact that the procurement route has on design risk management, the phasing of design work and some of the key issues that Principal Designers, CDM advisors and risk managers need to identify and control.

He will look at examples of the typical procurement routes and some of the less common "fast track" routes in use (such as bill of quantities/specification and drawings), fast track (cost plus/open book) as well as design and build and negotiated alternatives. It will also cover of CDM documentation within the contract set and whether these documents need to vary depending on the procurement routes selected.

What you will learn

You will gain an overview of the options for procuring construction work to suit a range of projects, timescales and client drivers, and how these might impact on the workload of the Principal Designer. The session will also be useful to those assisting clients with the procurement of civil works, gaining an understanding of what will be required from the Principal Designer, and when.



Matt Harrison

Programme

13:30	Registration, tea and coffee
14:00	Welcome and introduction
14:05	Introduction and contract basics
14:30	Pre-contract programme
14:45	The Traditional route
15:15	The D & B route
15.45	Miscellaneous procurement routes
16:00	Tea and coffee break
16.30	Contract documents
17.00	Wrap up/review
17:30	Questions
18:00	Close

Prices

APS members	no charge, this is an inclusive event
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APS corporate and affiliated members:	£71 + VAT
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Non members:	£96 + VAT
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To book your place and find out more about this CPD series visit

www.aps.org.uk/national-cpd-autumn-2018

National CPD: Autumn 2018

Dates across the UK

Tuesday 25 September	Holiday Inn Express	Stanstead
Thursday 27 September	The Arora Hotel	Crawley
Tuesday 02 October	Jurys Inn	Derby
Wednesday 03 October	Marriott MetroCentre	Newcastle
Tuesday 09 October	DoubleTree by Hilton	Milton Keynes
Tuesday 30 October	Jurys Inn	Inverness
Wednesday 31 October	Holiday Inn	Edinburgh
Tuesday 13 November	Future Inns	Cardiff
Wednesday 14 November	DoubleTree by Hilton	Southampton
Tuesday 27 November	Village Hotel	Glasgow
Wednesday 28 November	Park Avenue Hotel	Belfast

The dates below are now sold out. If you wish to attend, you can book to attend this event in another region. If you are unable to do this and you would like us to run a second date in your region, please tell us by emailing Rebecca.eunson@aps.org.uk. If there enough interest we will aim to run second dates in these regions.

Sold out events

Thursday 20 September,
Wednesday 26 September

Tuesday 06 November
Wednesday 07 November
Thursday 15 November

The Arden Hotel
Coin St Neighbourhood
Centre
Cottons Hotel & Spa
Holiday Inn
Exeter Racecourse

Birmingham
London
Knutsford
Leeds
Exeter



Your letters

We are always happy to hear from you, and to listen and respond to what you say. If you would like to write to Project Safety Matters about an article, we will print it on this page.

Email: rosalind.grozier@aps.org.uk

Write to:

The Editor, Project Safety Matters
The Association for Project Safety
5 New Mart Place, Edinburgh
EH14 1RW

In this letter, Stewart Kidd, who has delivered CPD for APS members, discusses his concerns about an article we published about Scaffolding in Project Safety Matters, Spring 2018 (Page 18).



Dear Editor,

I'm surprised that an otherwise-comprehensive article on scaffolding in the APS journal overlooked the critical need for fire resistance in scaffolding cladding. This requirement was always stressed by me in the CPD and other presentations on construction site fire safety delivered for APS and is particularly critical in the construction of timber framed buildings which are especially vulnerable to fire during construction.

Since the major fire at the Langham Hotel in London during major refurbishments (1987-89) all building professionals should be aware of the potential for fire spread via scaffolding cladding. This is why the Joint Code of Practice on the Protection from Fire of Construction Sites and Buildings Undergoing Renovation have required that: 'When flexible materials are used to clad scaffolding, these materials must confirm to the requirements of the LPCB's Loss Prevention Standard LPS 1215: Fire requirements for protective covering materials'.

Where the Joint Code is called up by the insurer, non-compliance with this sensible precaution could result in negating insurance cover.

Kind regards
Stewart Kidd

APS replies: **Dear Stewart**

Thank you very much for taking the time to write in. You are quite right in emphasizing the importance of fire resistance in scaffolding cladding.

The author was responding to specific questions we asked with the aim of producing a short, general piece for our members. Fire resistance is one of a range of specialist areas in scaffolding, and while not wishing to diminish its importance, fell outside the scope of the questions the author was asked to answer.

Regards,
The Editor



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First event in conjunction with CABE

CABE event: Buildeng Southern, delivered in conjunction with APS
APS members attend at CABE members prices

Author: Staff writer



You are invited to attend Buildeng Southern, delivered by the Chartered Association of Building Engineers (CABE), in conjunction with APS, at CABE member prices.

Earlier this year APS signed a memorandum of understanding with the Chartered Association of Building Engineers (CABE). This means APS members can attend many of CABE's events at CABE members prices. This

is event is the first of more CABE and APS will be delivering in conjunction with each other.

Where: The Building Centre, Store Street, London WC1E 7BT.

When: Wednesday 14 November 2018

Price: £59 + VAT for APS (and CABE) members (Book 4 or more places and receive 25% off using the code 'CABE25')

Book your place

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More information

Visit: www.cbuilt.com/buildenglondon

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Programme and times

08.30 CABE Exhibition Opens and Refreshments

09.15 Welcome and Housekeeping
Michael Wadood BSc(Hons) C.Build E PPCABE FCABE FRICS MCIOB,
Director – MLM Building Control Ltd and
Chairman of CABE, Southern Region

09.20 CABE and APS Joint
Presidential Welcome and Address
David Taylor BA(Hons) C.Build E
PCABE FCABE MCIAT FIPWS,
President – CABE and Bobby
Chakravarthy, President – Association
of Project Safety

09.45 Addressing Digital Technology in
the Global Built Environment
David Taylor BA(Hons) C.Build E
PCABE FCABE MCIAT FIPWS,
President – CABE

10.30 Asbestos Awareness
John Wootton, Senior Asbestos
Surveyor – MLM Group

11.15 Refreshment Break

11.45 Fire on Construction Sites and
the Hazards they Cause
Lynsey Seal, London Fire Brigade –
Fire Engineering Group

12.30 Technical Consideration of
Volumetric Modular Construction
James Walsh, Director – Studio Anyo

13.15 Buffet Lunch and Exhibition

14.15 Fire Operational Procedures
during a Call-out
Lynsey Seal, London Fire Brigade –
Fire Engineering Group

15.00 TBC

15.45 Secure by Design (Creating the
Right Environment for People to Thrive)
Clive Johnson Dip OSH, CMIOH,
MIIRSM, Hon Fellow APS, Group
Head of Health, Safety and Security –
Landsec

16.15 Event Close



President's Postscript: Bobby Chakravarthy



As I come to the end of my term as President of the Association for Project Safety I want to thank you for making my time at the helm a pleasure and a stimulating challenge. I believe we can take pride in what has been achieved and look forward to things yet to be done.

Author: Bobby Chakravarthy

There is no denying the industry has been through a difficult time and the pall that hangs over the Grenfell Tower disaster has not yet cleared. It is likely to have long-lasting and far-reaching implications for the way projects are designed, built, managed and maintained. I have been around the country talking to concerned clients who want to know that the buildings in their charge are safe and up to standard. They are doing the right thing. But it only fair to say that there will be others who seem not to care at all.

The recent collapse of the Genoa viaduct indicates how health and safety can so often be relegated to the bottom of the heap, buried under all the other things that need to get done. Buried so far down that it never gets to the surface at all.

Talk to anyone after a disaster and there will always be voices saying that they knew all along there was a disaster waiting to happen, but no one listened. And that is quite possibly true. But, while I have some sympathy with that point of view, it



It is time to stand up for safety. It cannot be the Cinderella of the construction sector any longer. It is why APS remains a vital voice and why you have a central role to play in the future.

really is not good enough to know that something is wrong and then fail to take responsibility for playing your part in trying to have something done.

It is time to stand up for safety. It cannot be the Cinderella of the construction sector any longer. It is why APS remains a vital voice and why you have a central role to play in the future. You are already at the forefront of innovation and technological development. You are rightly concerned about the need to make a positive contribution to the forthcoming review of the CDM regulations.

But APS does not work in a vacuum and much more can be achieved when we work with colleagues across the construction sector. I am particularly proud of the relationships we have forged with both CIAT and CABE. And look forward to further collaborations to come.

As I hand over the reins to Stella Clutton-Saunders I believe the future for APS is bright. We are needed. We have a contribution to make. And there is a great deal of work to be done. You have the skills and we will give you the voice. Together, I believe we can look to the future with confidence and renewed vigour.





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11 October 2018, Staffordshire		
CDMF181011		£290.00
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APS DESIGN RISK MANAGEMENT AND CDM2015 FOR DESIGNERS		
06-07 November 2018, Staffordshire		
ADRM181106		£620.00
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UKATA ASBESTOS AWARENESS		
08 November 2018, Staffordshire		
ASBA181108		£55.00
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THE SYNERGY OF CDM2015 AND BIM		
22 November 2018, Staffordshire		
SBIM181122		£300.00
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APS CDM2015 AWARENESS		
17 January 2019, Staffordshire		
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