No Approved Code of Practice for the Construction (Design and Management) Regulations 2015?

The Construction Industry Advisory Committee (“CONIAC”) has published its members’ views on whether the Construction (Design and Management) Regulations (“CDM 2015”) require an Approved Code of Practice (“ACOP”)

When CDM 2015 came into force in April 2015, there was uncertainty as to whether or not an ACOP would be introduced to give practical guidance on how to comply with the Regulations.

An ACOP for CDM 2015 was considered a potentially useful document given the extension of the regulations to domestic clients and the introduction of the new Principal Designer role in place of the CDM Co-ordinator. Furthermore, as with the old ACOP it was thought that by complying with an ACOP, a dutyholder would be able to demonstrate that it had done enough to comply with CDM 2015.

At the time CDM 2015 came into force, the HSE had published a legal reference document, L153, which explained the aims of CDM 2015 but did not go as far as an ACOP. In addition CONIAC published industry guidance for Principal Designers, Designers, Principal Contractors, Contractors, Workers and Clients.

Having sought their members views on whether CDM 2015 requires an ACOP, CONIAC have reported that the majority considered that such an ACOP was not necessary.

Reasons for such a view included an ACOP would add further complexity for smaller dutyholders and domestic clients and it may restrict best practice by dutyholders solely focussing on compliance with the ACOP and going no further.
As set out on CONIAC’s website the report on their members’ views:

“On the balance of views expressed, there is no strong support for an ACOP…. there is not a sufficiently convincing case to make to either the Board or to Ministers that an ACOP should be developed. However, HSE would encourage the industry to continue to work on its own sub-sector guidance and will also consider the suggestions for further guidance made, as well as any others that may be made in the future”.

Although the decision on whether or not to introduce an ACOP is to be made by the HSE Board, it is likely that they will follow CONIAC’s conclusions.

December 2015

For further information please contact:

Sheena Sood
Partner
T: +44 (0) 20 7469 0402
E: s.sood@beale-law.com

James Vernon
Associate
T : +44 (0) 20 7469 0424
E : j.vernon@beale-law.com