

## How does workplace health and safety law apply to self build?

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- Health and safety law should not discourage people from undertaking self build projects if they feel they have the necessary skills, knowledge and understanding of construction processes. However, construction work is high risk work and each year more than 50 people are killed and many thousands seriously injured. Small sites account for up to three quarters of these incidents.
- Self builders will have duties under workplace health and safety law if
  - a) they intend to sell the property on completion, in which case they would be considered to be a developer
  - b) the self builder directly employs (even if only temporarily), workers to build the property
  - c) they choose to manage the project taking on contractors to do the work
- The Construction (Design and Management) Regulations 2007 (CDM) place duties on all those in the construction supply chain including the client, designers and contractors. Many of the regulations only apply to those who carry out the work as part of a business (a) above would be considered a business). However, some of the regulations also apply to anyone who has control over the way in which construction work is carried out and this will include those self builders who fall into b) and c) above.
- The self builder who takes on the project management role would have duties to ensure:
  - health and safety risks are properly controlled throughout the project
  - activities are coordinated to ensure the work is done safely
  - contractors they appoint are competent to do the work safely, and
  - those working on site co-operate with each other.
- Practical guidance on how to manage a construction site and control the risks that arise from construction work can be found on the HSE Website at <http://www.hse.gov.uk/construction/index.htm>.
- Where the self builder employs workers there will be some additional duties such as obtaining Employer's Liability Compulsory Insurance and the duty to control the risks that arise from the construction work.

- There are a number of well known duties under CDM which are not required of self builders
  - There is no requirement to notify HSE of the project
  - A CDM Coordinator need not be appointed
  - A health and safety plan does not have to be prepared
  - A health and safety file does not have to be prepared for the completed structure/building

Self Build Category	Description	Application of Health and Safety at Work legislation
<b>Level 1: Entirely DIY</b>	All work is undertaken by the self builder	Provided that the self builder does not plan to sell the property on completion the legislation will not apply
<b>Level 2: Self-managed with own labour and subcontractors</b>	Here the self-builder is undertaking aspects of the work in a DIY fashion, interspersing this with hiring and managing subcontractors.	The self builder will be exercising control and the legislation will apply. Where the self builder employs labour they will attract additional duties for their employees.
<b>Level 3: Self-managed with subcontractors</b>	In many ways similar to Levels 4 and 5, but without a superstructure contractor. Essentially, the self-builder has to arrange all the trades throughout the job.	The self builder will be exercising control and the legislation will apply.
<b>Level 4: Kit home with self-managed trades</b>	In many ways similar to Level 5, this is the route chosen by most people who purchase a timber frame kit from a UK supplier. The kit home supplier is usually responsible for managing the design issues, supplying and erecting the superstructure, but the self-builder is responsible for organising the ground works and finishing trades.	The self builder will be exercising control and the legislation will apply at the point at which either the kit supplier has completed their work and handed the site over or the when the self builder or his contractors begin work on site.

<b>Level 5: Watertight shell with self-managed finishes</b>	A builder is contracted to erect the house to watertight shell stage, at which point the project is handed over to the self-builder who manages the finish trades directly with subcontractors.	The self builder will be exercising control and the legislation will apply at the point at which either the contractor has completed their work and handed the shell/site over or the when the self builder or his contractors begin work on site.
<b>Level 6: Turnkey project with active client</b>	Here a self-builder hires a builder to undertake the whole process, either under a fixed price contract with extras, or on a labour and materials basis.	The legislation will not apply to the self builder
<b>Level 7: Custom homebuilding</b>	Also known as a turnkey build (because you don't have to do anything other than turn the key in the front door upon completion), custom homebuilding is common in other countries, but remains unusual in the UK. Where you do see it, it tends to be seen as a very upmarket option, either delivered by an architect with builders working under contract, or by a kit home supplier, often German or Swedish in origin.	The legislation will not apply to the self builder

## Legal interpretation of self build

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- Self build does not attract duties under the Health and Safety at Work etc Act 1974 unless
  - the self builder intends to sell the property on completion in which case they may be considered to be self employed
  - the self builder directly employs (even if only temporarily) workers to build the property
- As an employer the self builder has a duty to ensure the health and safety of their employee(s). In relation to construction work the Construction (Design and Management) Regulations 2007 (CDM) place duties on those procuring, planning, designing for and carrying out construction work. Many of the duties only fall on those who are carrying out the work as part of a business but a number of important duties will fall on some self builders.
- Self build is “construction work” and a “project” as defined in the CDM.
- A self builder cannot to any extent assume the CDM duties/responsibilities of the client, designer, principal contractor or other contractor as these definitions are all qualified by the term ‘...in the course or furtherance of a business.’
- A self-builder may be subject to a duty under CDM by virtue of Reg. 25(2), to the extent that the individual controls construction work being carried out. The duty is for the individual to comply with the requirements of Part 4 insofar as they relate to matters within their control.
- Part 4 includes duties relating to;
  - Safe places of work
  - Good order and site security
  - Stability of structures
  - Demolition or dismantling
  - Excavations
  - Reports of inspections
  - Traffic routes
  - Vehicles
  - Prevention of risk from fire etc.
  - Emergency procedures
  - Emergency routes and exits
  - Fire detection and fire-fighting
  - Temperature and weather protection
  - Lighting

- In line with the extent of that control self builders will have to ensure that:
  - those contractors they appoint are competent to do the work safely, and
  - those working on site co-operate with each other;
  - activities are coordinated to ensure the work is carried out safely
- Self build projects are not notifiable (to the HSE) as the self builder is not a client as defined in CDM. Self builders will not therefore be required to appoint CDM Coordinators or prepare health and safety plans and files.

