



LSR / CDM breach – fencing works undertaken without CPP in place

Issued to: **All Network Rail line managers, safety professionals and accredited contractors**

Ref: NRL23-04

Date of issue: 12/07/2023

Location: Melton Mowbray

Contact: [Aonghus McGinn, Health & Safety Manager, SCO Capital Programmes](#)

Overview/Underlying causes

Overview

Following a site documentation assurance review, carried-out on an existing fencing project adopted by SCO Capital Programmes, it was established that the project was underway without a Construction Phase Plan (CPP) in place. This was a breach of the **Construction (Design and Management) Regulations 2015** (CDM Regs).

It was believed by both the Network Rail (NR) project team and the Contractor's project team that CDM did not apply and, subsequently, a CPP was not required. Adequate Work Package Plans (WPP's) and Task Briefing Sheets (TBS's) were in place for the works but the requirement for a CPP was overlooked.

By failing to comply with the CDM Regs, the project was also failing to comply with two Network Rail Standards:

- [NR/L2/OHS/0047 \[Issue: 7 \] Managing Health and Safety in Construction \(Application of the Construction \(Design and Management\) Regulations to Network Rail\)](#)
- [NR/L2/OHS/0044 \[Issue: 5 \] Planning and managing construction work \(formerly NR/L3/INI/CP0044\)](#)

Furthermore, in failing to have a CPP in place, the project was in breach of Network Rail's **Life Saving Rule – Always be sure the required plans and permits are in place before you start a job or go on or near the line.**



This led to the raising of a Close Call and subsequent Level 1 Investigation as a Life Saving Rule breach. A CPP was retrospectively requested in order to be compliant with legislation and, in the meantime, a review of WPP's, TBS's and Site Audit Reports took place to ensure works were being carried out safely.

Underlying cause

A lack of CDM knowledge and awareness within the Network Rail project team, and failure to follow a project lifecycle process (e.g. PACE – see link below) meant a CPP was not requested from the Contractor.

The contractor's project team believed CDM did not apply, because Network Rail had not requested a CPP. Focus, therefore, was on the production of WPP's and TBS's for the individual packages of work.

The works commenced without the required CPP in place partially because the project teams did not involve Health & Safety (H&S) support early in the project.

CDM training has now been arranged for the Network Rail team involved while the Contractor has implemented a robust process of early H&S involvement in projects to mitigate against legislative and standard non-compliance.

Key message

- To confirm if CDM applies to your project, check the definition of 'Construction' as per the legislation, section **1.2 – Interpretation - [The Construction \(Design and Management\) Regulations 2015 \(legislation.gov.uk\)](#).**
- Failure to comply with the CDM regs may incur a penalty from the Office of Rail and Road (ORR).
- If CDM applies to your project, be sure to follow Network Rail's Standards [NR/L2/OHS/0047](#) and [NR/L3/INI/0044](#)
- If your project falls under CDM, you need to have a CPP. This is the responsibility of the Principal Contractor (PC); It is to be drawn up during the pre-construction phase; and in place before setting up a construction site. For single contractor projects, this is the responsibility of the sole contractor.
- Where projects involve any construction work, ensure your project team have adequate CDM knowledge, awareness and training.
- For Network Rail employees, there is a suite of training available to enrol on via Oracle. There are three course options available:
CDM Awareness and Client
CDM Contractor and Principal Contractor
CDM Designer and Principal Designer
For more details, see [Network Rail's training catalogue](#).
- The HSE have produced a guidance on CDM, it is referred to as guidance document **L153**, and is available [here](#). CDM guidance is also available via [Safety Central](#).
- If in any doubt about the applicability of any legislation or industry standard, please consult with your H&S support. Adherence to [PACE](#) (by NR project teams) and early involvement of H&S support on a project will help avoid non-compliance.