



Federation of Archaeological Managers and Employers
Unit 54, Brockley Cross Business Centre
96 Endwell Road
Brockley
London, SE4 2PD
E: info@famearchaeology.co.uk
W: www.famearchaeology.co.uk

To
Infrastructure Northern Ireland
Procurement Branch
Rathkeltair House
Market Street
Downpatrick
BT306AJ

25th May 2018

Your reference **T-1088**

A5WTC Phase 1A Archaeological Investigation: archaeology and CDM

The Federation of Archaeological Managers and Employers (FAME) is the trade association for professional archaeological practices in the UK.

We have been approached by members in respect of the above project currently being procured by your organisation and specifically in respect to a letter (Tender Circular Letter 1) sent out to tendering parties on 22/05/2018 in which you state that the project work are 'governed by the requirements of The Construction (Design and Management) regulations (Northern Ireland) 2016.

This is incorrect, and will result in archaeological contractors being unable to comply with the tender requirements. The correct position is that archaeological works having been excluded by the HSE from the definition of 'construction works', and such they exempted from the CDM regulations when undertaken prior to and separate from construction activities.

The exemption has been included to ensure that archaeologists are not inadvertently burdened with the role of Principal Contractor for a project, just because they are often the first 'contractor' on a future site. The role of Principal Contractor can only be assumed by a person or organization that has the skills, knowledge and experience required to fulfil the Principal Contractor duties across the whole project, from concept design, through build and ultimate handover of the new structure.

However, archaeological investigations or activities that are undertaken during the construction phase of a project will be governed by the requirements of CDM – but archaeologists and their activities will be considered to be specialist contractors and will therefore comply with the directions of the PC and PD and take responsibility for the

planning, management and monitoring of their own work – as any other contractor working in the construction phase of the project.

Further information is available on our website here:

<http://www.famearchaeology.co.uk/2015/05/cdm-2015-revisions-and-archaeology/>, and we would respectfully suggest that you contact HSE, for confirmation.

We understand that the archaeological works planned on the A5 are all pre-construction, and so there is no requirement for these to be subject to the CDM regulations or to require the archaeological contractor to perform the role of PC. We hope this clarification will enable you to alter your instruction to tenderers and so ensure that you continue to have access to the most qualified and expert candidates.

We would be grateful if you could confirm your acceptance of the above advice.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nick Shepherd', with a stylized flourish at the end.

Nick Shepherd MCIfA
CEO