



SAFETY UPDATE

Issue 5 May 2017

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HSE OPEN FEE FOR INTERVENTION CONSULTATION

Regulator proposal for revised FFI disputes process

Following initiation of Judicial Review HSE has now decided to “move to a fully independent process for considering disputes in relation to the Fee For Intervention (FFI)” and the regulator is now [consulting](#) on the details of how the process should operate.

HSE recognise the need to ensure that the process is accessible to all types and sizes of business and is proportionate to the issues involved and amount of the fees. It is also recognised that businesses need to be able to understand why HSE considers that they are in material breach of the law and why the fees have been reasonably incurred.

Consideration of disputes

HSE proposes that future disputes will be considered by a panel independent of HSE consisting of a lawyer as chair together with two other members with practical experience of health and safety management.

Introducing a lawyer as chair of the panel could be seen by some as making the process too legalistic and quasi-judicial. HSE do not want to make the process inaccessible to small businesses. However, many disputes centre on whether there has been a material breach of the law and therefore the skills of a lawyer will be valuable in considering this.

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INDUSTRY BODIES STRUCTURE MEWP SAFETY ALERTS

Strategic Forum Plant Safety Group publishes Safety Alert Protocol

A Safety Alert Protocol has been developed by the Strategic Forum Plant Safety Group (SFPSG) Mobile Elevating Work Platform (MEWP) Group. The SFPSG document explains that:

"The circulation of factually incorrect, misleading or poorly written information contained in a safety alert can and does repeatedly cause unnecessary confusion within the industry.

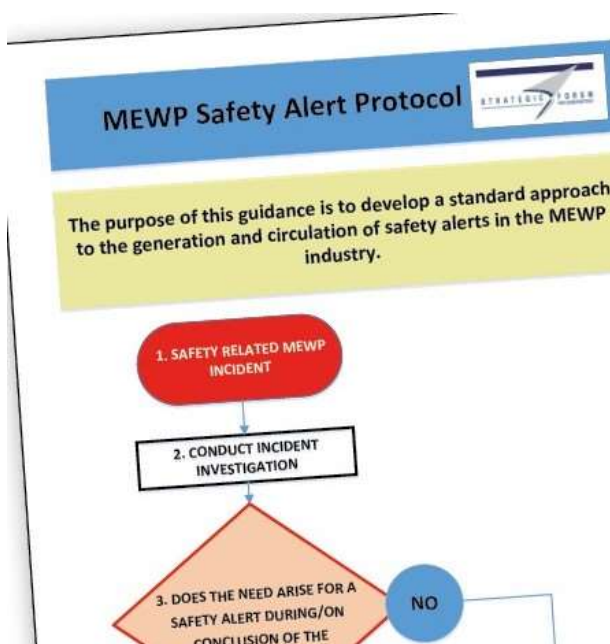
Once issued the author loses control of the document, as it is passed from company to company around the world, often being re-issued or rebranded with a different company letter head and frequently reappearing years after it was first issued.

This MEWP safety alert protocol has been developed by the Strategic Forum MEWP Safety Group to help prevent such situations."

The Protocol is intended to guide the author of a Safety Alert to ensure that the alert is authoritative and helpful to the recipients. A standard format is included for the layout and content of Safety Alerts.

Hirers, contractors and specialists work together

Chris Wraith, Technical and Safety Executive at IPAF, said:



"Safety Alerts are always issued with good intentions, but sometimes omit key information, which can lead to speculation and over-reaction when they are received. We hope that this Safety Alert Protocol will help the MEWPs industry improve safety whilst maintaining productivity."

TOUGHER COURT PENALTIES UNDER NEW GUIDELINES

Analysis of health and safety prosecutions reveals rise on most metrics

The construction safety consultancy *MPW R&R* has [published](#) an analysis of prosecution conviction data available on HSE web site. The data has been analysed to assess the impact of the first year of the new court Sentencing Guidelines in respect of organisations and individuals working in the construction industry convicted of breaches of health and safety legislation.

Comparisons have been made with the final year of the previous Guidelines.

Median fine increased by one-third

The analysis shows that the median fine per construction organisation increased from £13.4k under the old Sentencing Guidelines to £20k under the New Guidelines. The largest fine imposed on a construction organisation increased from £1m to £2.6m.

The proportion of individuals receiving prison or suspended prison sentences rose from around 1 in 3 (31%) to nearly 1 in 2 (47%) in the first year of the new Sentencing Guidelines.

The proportion of individuals receiving fines reduced from 57% to 40% with the new Sentencing Guidelines.

CASES

LIFTING OPERATION WITH EXCAVATOR CAUSED DEATH

Groundworker fatally injured when struck by concrete drainage cover

A construction company has been sentenced following the death of an employee in October 2013.

Lewes Crown Court heard how the ground worker and colleagues were constructing and installing drainage boxes at a site at a Primary School in West Sussex.

The workman was struck by a concrete drainage cover as he was standing in the excavation area and later died because of the severe head injuries sustained.

HSE found that the company failed to properly plan the lifting operation and failed to supply workers with the safe and appropriate equipment to carry out the work.

It was also found the lifting chains used were too long for the work and were not attached safely to the cover or the excavator.

Lack of proper planning for lifting operation

The firm pleaded guilty to breaching Section 2 (1) of the Health and Safety at Work Etc. Act 1974 and has been fined £100,000 and ordered to pay costs of £16,918.

Speaking after the hearing HSE inspector Andrew Cousins said:

Guidance on Lifting Operations in Construction When Using Excavators



"Our investigation was prompted in the most tragic of circumstances. The defendant should have properly planned the lifting operation regarding this work activity. If the company had done so this death could have been avoided."



WATER FIRM FINED £1.8M AFTER WORKER DROWNED

Workman fell through opening into sand filtration tank

Truro Crown Court has heard how a water works "catchment operator" drowned whilst working on a sand filtration unit of the Falmouth Waste Water Treatment Works on 30 December 2013.

The workman was last seen working on the top of the unit several hours before he was found by his colleague who was responding to the lone worker system.

HSE investigators found the company failed to identify the risk of drowning associated with the maintenance activity undertaken by workmen on a regular basis.

Hatch size could have been reduced

The water company from Exeter pleaded guilty of breaching Section 2(1) of the Health and Safety at Work Act 1974, was fined £1.8million and ordered to pay costs of £41,607.71.

Speaking after the hearing HSE inspector Georgina Speake said:

"This tragic case could have been prevented if the company had reduced the size of the hatch used to access the sand filters, and properly considered the hazards of the operation, including how close he was to the water.

In sentencing Judge Robert Linford said:



"The danger of people falling into tanks was pointed out to South West Water on several occasions and the fact that something needed to be done to address it. It was an accident waiting to happen and it happened and a family has been devastated"

PC AND CONTRACTOR PAY PRICE FOR UNSAFE WORKING

Dangerous working practices continued during 'snowy' weather

A Principal Contractor and a roofing contractor have been ordered to pay over £66,000 each after HSE inspectors uncovered dangerous working practices during a factory roof replacement near Oldham.

HSE was notified of concerns that workmen were working on the roof with nothing in place to prevent them falling from the edge or through the roof onto workers in the textile factory below.

HSE confirmed the hazardous working conditions with workers from both companies at risk. Inspectors also established that these working practices continued during snowy weather and that factory employees below were also at risk from being hit by falling tools or debris.

Obvious risk to workers

Both companies were prosecuted at Manchester Magistrates' Court to breaching Sections 2(1) and 3(1) of the Health and Safety at Work etc. Act 1974 and each fined £66,000 with £3938.38 costs.

HSE inspector Matt Greenly said after the case:



"These two companies failed in their duties to protect the roof workers and anyone working below them in the mill from a foreseeable risk of serious harm.

The risks to workers here were obvious, and neither company thought it necessary to manage the work at height risks properly."

ASPHALT MIXER CLAIMS FINGERS OF WORKMAN

Guarding on mixing machine below the safety standard required

A road surfacing contractor has been fined after one of its workers suffered life changing injuries to his hand in April 2015.

Nuneaton Magistrates Court heard how the firm was appointed specialist contractors for a new footway. The workman was using a screwdriver to scrape asphalt residue off the mixer they had been using when the screwdriver slipped causing the worker to catch on the lip of the mixer, and causing him to lose middle and index fingers.

Equipment safety checks essential

HSE found that the guarding on the mixing machine was below the safety standard required for people to safely operate the machinery.

The company from Scunthorpe pleaded guilty of breaching Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998, and has been fined £6,000 and ordered to pay costs of £1995.92.

Speaking after the hearing HSE inspector Luke Messenger said:



"This case highlights the importance of safety checking equipment and machinery, ensuring that they have the appropriate guarding in place to avoid serious injuries like this."

CLIENT FINED OVER ABSENT ASBESTOS SURVEY

Refurbishment project commenced before survey undertaken

Two companies have been fined after refurbishment work was undertaken before a suitable asbestos survey had been undertaken to identify if any asbestos containing materials (ACMs) were involved in a basement conversion in Manchester.

An unannounced HSE visit was conducted to inspect the ongoing refurbishment works. During the visit, it was discovered there had been no asbestos survey carried out before tradesmen started stripping out most the space.


Survey requirement clear and well known

The client pleaded guilty to breaching Regulation 4(3) of the Control of Asbestos Regulations 2012 and was fined £10,000.

The contractor pleaded guilty to breaching Regulation 5(a) of the Control of Asbestos Regulations 2012 and was fined £24,000.

Speaking after the hearing HSE inspector Matt Greenly said after the case:

Managing my asbestos	
1. Introduction	
2. Are you responsible?	
3. When was it built?	
4. Information available	
5. Inspect your building	
6. Determining priorities	
7. Types of asbestos	
8. Write your plan	
9. Testing for asbestos	
10. Tell people what you're doing	
11. Getting work done	
12. Keep records up to date	
Further information	
Feedback	



Refurbishment / demolition survey

Tell the surveyor you want a **refurbishment/demolition survey**.

The refurbishment / demolition survey is required where the premises, or part of it, need upgrading, refurbishment or demolition. The survey does not need a record of the condition of asbestos-containing materials (ACM). Normally, a surveyor is needed for refurbishment / demolition surveys.

A Refurbishment / demolition survey aims to ensure that

1. nobody will be harmed by work on **ACM** in the premises or equipment;
2. such work will be done by the right contractor in the right way

The survey must locate and identify all **ACM** before any structural work begins at a stated location or on stated equipment at the premises. It involves destructive inspection and asbestos disturbance. The area surveyed must be vacated, and

"Both firms failed in their duty to protect their workers, subcontractors and visitors to his site from harm. Asbestos related diseases are currently untreatable and claim the lives of an estimated 4000 people per year in the UK.

The requirement to have a suitable asbestos survey is clear and well known throughout the construction industry. Only by knowing if asbestos is present in any building before works commence can a contractor ensure that people working on their site are not exposed to these deadly fibres."

ELECTRICIAN FAILED TO PROTECT HIS TRAINEE

Community service sentence after apprentice fell through ceiling

A Birmingham electrician has been ordered to carry out unpaid work in the community after his trainee fell three and a half metres through a plasterboard ceiling.

Birmingham Magistrates' Court heard that the apprentice electrician spent 23 days in hospital after suffering head injuries whilst installing wiring above the false ceiling.

HSE found there was no proper planning for work at height and the sole trader electrician did not fulfil his duty of care.

Young and inexperienced require special care

The electrician from Selly Oak, Birmingham, pleaded guilty to breaching Work at Height Regulations 9(2) 2005, was given 120 hours unpaid Community work and ordered to pay full costs of £1152.24.

Young people at work

- Risks
- Training and supervision
- Work experience**
- Apprentices
- The law
- FAQs
- Myths
- Resources and useful links
- News
- Subscribe

When employing a young person under the age of 18, whether for work, **work experience**, or as an apprentice, employers have the same responsibilities for their health, safety and welfare as they do for other employees.

This guidance will help young people and those employing them understand their responsibilities.



Work experience
Introducing young people to the world of work can help them

Young people FAQs
▶ How do I assess a young person's psychological

HSE Inspector Gareth Langston said:

"It's important that employers put the safety of their workers, especially young inexperienced apprentices, at the forefront of their plans and consider precautions when working at height."

"This incident could have been prevented if there was proper planning in place using boards above or scaffolding below."

MAJOR CONTRACTOR FAILED ON POWER LINE RISK

Workman suffers severe burns after post touches 11kV overhead cable

A major UK contractor has been fined £260,000 after a man suffered multiple life changing injuries including severe burns to his neck in January 2015.

Winchester Crown Court heard how the company was appointed by Network Rail to construct a new railway operating centre in Basingstoke.

During work installing lampposts on the site entrance road a lamppost touched the 11kV overhead power lines as it was being lifted into position by an excavator causing severe burns to a subcontractor workman.

No preventive measures in place

HSE investigators found a failure to properly identify the presence of the overhead power lines and appropriately plan this work activity. No suitable control measures were in place to prevent contact with the overhead power lines.

The Principal Contractor pleaded guilty to breaching Regulation 14 of the Electricity at Work Regulations 1989. The company has been fined £260,000 whilst the subcontractor also pleaded guilty and was fined £22,000. Speaking after the case HSE inspector William Christie said:

"This case highlights the importance for all work to be planned properly by all duty holders. Overhead power lines pose a significant threat to the safety of workers. Construction work near live conductors must be properly planned, managed and monitored to ensure the risks are controlled."

GROUND WORKER LEFT PARALYSED

Gas infrastructure business failed to maintain safe system of work

An Essex company specialising in gas infrastructure works, has been fined £200,000 after an employee was left paralysed when a pipe fell into the excavation in which he was working in May 2014.

Maidstone Crown Court heard how the company employee entered the trench to connect gas pipes. The new pipes were set down on packing timber across the trench. The weight of the pipes caused the tarmac to give way and the pipe to fall into the trench striking the employee causing significant injury including a fractured spine. He is now paralysed and has no feeling in his bowel.

Workers must be instructed in safe system of working

The company from Leigh-on-Sea, Essex, was found guilty of breaching Section 2(1) of the Health and Safety at Work etc. Act 1974, and was fined £200,000 and ordered to pay costs of £56,686.

After the hearing HSE inspector Andrew Cousins said:



"Those in control of work have a responsibility to devise safe methods of working and to provide the necessary information, instruction and training to their workers in the safe system of working.

If a suitable safe system of work had been in place prior to the incident, the life changing injuries sustained by the employee could have been prevented."

PUBLICATIONS

Personal protective equipment and women published by the Trades Union Congress

<https://www.tuc.org.uk/workplace-issues/health-and-safety/personal-protective-equipment-ppe/personal-protective-equipment>

Preparing for the General Data Protection Regulations May 2018 published by the Information Commissioners Office (ICO)

<https://ico.org.uk/media/for-organisations/documents/1624219/preparing-for-the-gdpr-12-steps.pdf>

GET ON THE BALL ABOUT MENTAL HEALTH

HOW TO HELP A MATE WHO IS DEALING WITH DEPRESSION, ANXIETY OR OTHER MENTAL HEALTH PROBLEM

Here are our top tips for making a difference:
<https://www.menshealthforum.org.uk/how-to-help-a-mate>

GET ON THE BALL ABOUT MENTAL HEALTH

MEN'S HEALTH FORUM

Help a mate who is dealing with depression, anxiety or other mental health problem.

Find out more about mental health and how to be there for someone at [time-to-change.org.uk](https://www.time-to-change.org.uk) and [menshealthforum.org.uk/howRU](https://www.menshealthforum.org.uk/howRU)