

# Construction update

Newsletter | November 2013



## Welcome

The Health and Safety Executive were busy on construction sites in September this year. Basic safety standards were found to be lacking on over 1,000 of the sites visited and hundreds of enforcement notices were issued. This negative news contrasted with the more positive news that, over all sectors, numbers of workplace fatalities and major injuries are at an all time low. Changes to legal reporting requirements for the Reporting of Injuries, Diseases & Dangerous Occurrences Regulations (RIDDOR) 1995 also came into force in October.

In this issue we take a look at the findings of the HSE construction sector initiative as well as:

- The Enterprise and Regulatory Reform Act
- Fees for intervention
- Fire Safety
- Recent court cases.

In September, HSE inspectors carried out a nationwide inspection and enforcement initiative across construction and refurbishment sites, visiting 2,607 sites during the month. Inspectors found basic safety standards were not being met on 1,105 sites. On 644 sites, enforcement action was necessary to protect workers - with 539 prohibition notices served, ordering dangerous activities to stop immediately. A further 414 improvement notices were issued requiring standards to improve. Common problems included failing to protect workers during activities at height, exposure to harmful dust and inadequate welfare facilities.

**Workplace major injuries are at an all time low for 2012/13.** In October, the HSE reported figures that showed an 11 per cent



drop in major injuries compared to 2011/12, with major injuries such as amputations, fractures and burns down from 22,094 to 19,707 and fatalities down from 171 to 148 in this period. However minor injuries and ill health still cost the UK an estimated £13.8 billion in sick days per year.

HSE commented, "...we still see too many deaths and injuries...which could have been prevented through simple safety measures. Getting this right is the key.... health and safety is about sensibly and proportionately managing risks".



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### Key legislative changes

Changes to the Reporting of Injuries, Diseases & Dangerous Occurrences Regulations 1995 came into effect in October 2013 and simplify the mandatory reporting of workplace injuries.

The change affects all employers, including the self-employed. Information and guidance is available on the HSE website at: [www.hse.gov.uk/riddor/index.htm](http://www.hse.gov.uk/riddor/index.htm)

The Health and Safety (First Aid) Regulations 1981 have also been amended to remove the requirement for HSE to approve first aid training and qualifications and so reduce the burden on businesses. The new approach came into force on 1 October 2013. Additional information is available on the HSE website at <http://www.hse.gov.uk/firstaid/>

**Fee for Intervention (FFI) – The Health and Safety (Fees) Regulations 2012** have allowed the Health and Safety Executive to recover fees for regulatory work from 1 October 2012. Through 2013 an hourly rate of £124 has been charged to businesses that are found to be in material breach of health and safety law.

A material breach is when an HSE inspector is of the opinion that there has been a contravention of health and safety legislation to the extent that a notice needs to be issued. The written notice could be an

improvement notice, a prohibition notice or a notification of contravention.

Further information can now be found at [www.hse.gov.uk/fee-for-intervention/resources.htm](http://www.hse.gov.uk/fee-for-intervention/resources.htm)

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The final batch of invoices issued before HSE's 2012/13 year end yielded over £1 million in receipts. This is a £232,000 increase on the totals collected in the preceding period. This increase appears set to continue as new cases are added to the caseload, by further initiatives such as the March 2013 construction site 'blitz' that was repeated in September 2013. The construction and manufacturing sectors account for 70% of the total invoices generated (31% and 40% respectively) with other 'HSE Priority' sectors attracting fewer inspections and fewer FFI cases. It is also clear from the statistics that HSE are following up more RIDDOR reports including occupational health issues, such as asthma and dermatitis, which is a new target area that the HSE are following.

The figures suggest that FFI is working as envisaged by the HSE and coalition Government. Businesses need to ensure they too understand the system and what the HSE are seeking. They should

consider improvements to their overall risk management strategies so as to minimise the potential of being in 'material breach' of health and safety laws, and tightening up their policy and procedures for dealing with a visiting inspector in order to minimise the time HSE spend on site.

### The Enterprise and Regulatory Reform Act 2013

came into force on 1 October 2013. From this date an injured party cannot make a claim solely on breach of statutory duty imposed by regulations made under the Health and Safety at Work etc. Act 1974 thereby removing the concept of strict liability from Employers Liability (EL) claims. Instead, a civil claim for breach of health and safety duties can only be made if an employer fails in their common law duty of care. Regulatory compliance is still required in order to prevent criminal proceedings.

Whilst some organisations might take the view that certain claims will now potentially be easier to defend, QBE would caution that this is unlikely given the requirements of common law and the continuing importance of regulations in defining the standards for establishing negligence. Moreover in the short term additional costs may be incurred across a range of EL claims as liability issues have to be investigated thoroughly to establish whether the employer had taken reasonable care.

## Massive fire at construction site

Avon and Somerset Police were 'devastated to see the impact of the fire' that swept through their new firearms range near Bristol on 28 August. The £16 million state-of-the-art facility was under-construction and at the fit-out stage when arsonists struck.

## Fire Hazards on site...

Each year there are hundreds of fires on construction sites and refurbishment projects. Many fires could be avoided by improved planning and control of work activities related to fire risk. All construction and refurbishment sites in the UK must adhere to the Regulatory Reform Order (Fire Safety) 2005. This requires the appointment of a responsible person to prepare and implement a site Fire Safety Plan, and have regular liaison with the local Fire Service.

### Key considerations are:

- 1. Risk Assessment** – Fire can be a particular hazard in refurbishment work and at the later stages of building jobs where flammable goods such as adhesives, insulating materials, flooring and soft furnishings are required and being stored on site.
- 2. Site security** – keep out arsonists by ensuring that your site is secure. Make regular checks to ensure perimeter fencing and gates are robust. Consider using a reputable security guard service. Install additional lighting and CCTV.
- 3. Means of giving warning** – a formal process should be written down by the Fire Warden(s). Locations of hard wired (temporary) fire alarms, smoke or heat detectors and sirens should be considered.
- 4. Means of Fire Fighting** – Ensure easy access for fire crews both on the site and gaining access to the building. Be aware of hydrant locations so there is an adequate water supply for fire fighters. Appoint designated Fire Wardens to liaise with Fire Services on their arrival.



## In the News

A demolition firm in Port Talbot has been fined £30,000 after two of its workers were injured when a mezzanine floor collapsed on them.

HSE's investigation revealed that Wrexham Demolition and Dismantling Ltd had failed to ensure adequate risk assessment and supervision. The company was also ordered to pay costs of £100,074.

The director of a Hertfordshire building company and the co-owners of a property undergoing conversion have been sentenced for safety failings after a worker was killed in a trench collapse. Both the contractors and their client were prosecuted. The client was criticised for not making checks to ensure that the contractor was competent to carry out the work.

Fines given to the three parties involved amounted to £99,750 with costs of £34,750.

Further information on construction and excavation work can be found on the HSE website at: [www.hse.gov.uk/construction/safetytopics/excavation.htm](http://www.hse.gov.uk/construction/safetytopics/excavation.htm)

## QBE Risk Management

This newsletter is produced by QBE's Risk Solutions service team. We are a team of dedicated professionals who work closely with our clients to actively assist with accident prevention, employee rehabilitation and claims mitigation.

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