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# Health and Safety Executive Update

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# Why is HSE changing?

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- 2010 Lord Young's report on health and safety and compensation culture
- 2011 Government report – “Good Health and Safety, Good for Everyone.”
- 2011 Loftstedt Review – reducing burden of health and safety legislation.
- Civil Service Spending Review
- Government Red Tape Challenge

# Health and safety context

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- Reform health and safety landscape & culture
  - Greater focus on higher risk activities - Construction
  - Reduction in number of inspections in non construction industry.
  - Simplify regulation and legislation
  - Maintenance of high enforcement profile
  - Extending cost recovery

# Change within HSE

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- Closure of Incident Contact Centre
- Closure of advice and help line
- HSE website main point for all information
- Review of all published guidance
- Review of all estate (Manchester, Preston closed)
- New internal procedures to free up more time for Inspectors to be out on sites
- Consultations to remove legislation ongoing
- CDM 2007 to be redrafted by 2014 to more closely follow EU Directive.

# Hot off the press

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- Consultation CD241 Proposal to review HSE Approved Codes of Practice (launched 25/06/2012, closes 14/09/2012).
- Restriction in use of DCM (Dichloromethane) as a paint stripper from 06/06/2012. EU has banned the professional use of DCM as a paint stripper. UK has obtained derogation to allow it to be used by specially trained professionals. No details yet on training and certification. Ban on sales to general public. No ban on use at industrial installations where paint stripping takes place. Until guidance is produced Inspectors will be taking a risk based approach based on COSHH.
- Monday 06/08/2012 Two new consultations. Revision of RIDDOR and Removing HSWA duties from self employed workers who pose no risk to others.
- New Guidance of controlling dust when cutting roof tiles due before 01/10/2012

# 2012/13 Construction Work Plan

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- 11,000 Proactive Inspections
- 1,500 Licensed Asbestos Inspections
- Investigation of all mandatory accidents, dangerous occurrences, ill health and complaints
- 40 Timber kit fire inspections concentrating on external risk
- Improving Duty Holder Compliance Project
- CDM trackback on client, designer and CDMC duties.
- Local major projects – CWG, Forth Crossing etc.
- Engagement with major contractors
- Temporary Demountable Structures
- Mobile Elevating Work Platforms

# Proactive Inspections

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- Targeted
- Small Sites (less than 15 on site)
- Refurbishment sites
- Matters of evident concern or public concern
- Potential Catastrophic Events (Fire, structural collapse vehicle overturns, strikes on services etc.)
- Inspection campaigns Autumn 2012 and Spring 2013.

# Fee for Intervention

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- Implementation announced as 1st October 2012 subject to Parliamentary approval
- Compliant businesses will not pay a fee
- Recovery of costs for material breach identified during inspections or investigations
- Current cost £124 per hour
- Prosecution costs sought through the courts in England
- In Scotland costs up to reporting to Procurator Fiscal
- Invoicing every two months with 30 days to pay
- Queries and disputes process established



# FFI Progress



<b>Milestone</b>	<b>When</b>	<b>Output</b>	<b>Status</b>
Minister announced decision to extend cost recovery for H&S	21 March '11	Confirmation of decision and project team established	Complete
Public consultation	July – Oct '11	Formal consultation of how cost recovery will work	Complete
'Dry run' of processes and procedures	Oct - Dec '11	Ways of working tested with operational teams to inform shadow run	Complete
'Shadow Running' of processes and procedures	6 Feb to implementation	Ways of working tested across all teams to inform go live	Underway
Implementation of FFI	1 <sup>st</sup> October 2012	Guidance published, invoices being sent	Draft Guidance on website

# FFI Material breach



“A material breach is when, in the opinion of the HSE inspector, there has been a contravention of health and safety law that requires them to notify the dutyholder, in writing, of that opinion ”

# How do Inspectors determine material breach?



- Assess level of actual risk – consequence (serious personal injury, significant injury and minor injury) and likelihood (probable, possible, remote and negligible).
- Determine level of risk if compliance with Law being achieved.
- Calculate risk gap – extreme, substantial, moderate and nominal.
- Consider the legal benchmark to be achieved (defined standard, established standard and interpretative standard).
- Calculate the **initial enforcement expectation** (Prosecution, Enforcement Notice, Letter/Notice of Contravention and Verbal warning).
- Consider duty holder factors (relevant inspection and incident history, relevant previous enforcement, seeking economic advantage, level of actual harm, standard of general conditions, confidence duty holder can and will comply). This results in an **indicated enforcement action**.
- Consider strategic factors (public interest, vulnerable groups protected, achieve sustained compliance, will benchmark be achieved, acceptable functional impact of action, has HSE enforcement policy been met).
- If action taken or proposed is different from indicated enforcement action then reasons must be recorded and reviewed by line manager.

# What does Fee cover?

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- All time on site if material breach identified
- Office time writing letters, Notices and reports
- Follow up visit to site to ensure compliance
- Dealing with e mails, phone calls and reviewing submissions to assess compliance.
- Taking statements and evidence.
- Obtaining assistance from specialist Inspectors
- Recording conclusions, reviewing investigations and researching material.

# Queries and Disputes

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- 3 stage process
- Query to Line Manager of Inspector
- Dispute Level 1 – Issue is reviewed by HSE Senior Manager independent to management chain responsible for work activity that generated the invoice.
- Dispute Level 2 – Issue is considered by panel of HSE staff and an independent representative
- There is no charge for a query but time taken to deal with Disputes will be cost recoverable if Dispute is not upheld.
- No link with existing appeals procedures for enforcement notices

# Material breach?



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# FFI Example Scaffold Register

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- Scaffold register on site, not up to date, scaffold in good condition and site conditions reasonable – verbal warning - No FFI
- Scaffold register not on site and no evidence that inspections being done, scaffold in good condition, and site conditions reasonable – notice of contravention – FFI applies
- Scaffold register not on site, no evidence that inspections being done and scaffold not safe – possible PN & letter – FFI applies

## FFI Example – Welfare

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- Good standard of welfare but no hot water – verbal warning – NO FFI (lead work being done changes this outcome).
- Toilet, canteen, drying room on site all in poor condition and no hot/warm water – Notice of contravention/possible Improvement Notice – FFI applies
- No toilet, canteen, drying room – Improvement Notice, letter – FFI applies to this visit and return visit.

# Summary

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- Largest change ever to the way HSE works
- Updates on HSE website
- **However, no change to our core mission which is to prevent work related death, injury and ill health.**