

KEEP IT SAFE

BFFF QUARTERLY HEALTH AND SAFETY UPDATE

JULY 2008 EDITION



BRITISH
FROZEN FOOD
FEDERATION

Welcome

Welcome to the new BFFF quarterly Health and Safety newsletter 'Keep it Safe'.

Many of you will have noticed the launch of our new health and safety column in 'the bulletin'. The bulletin will contain headline information on health and safety topics, 'Keep it Safe' will provide more comprehensive information relevant to our industry.

This edition will include information on the following topics:

1. Legislative update

- i. Corporate Manslaughter and Corporate Homicide Act 2007

2. HSE campaigns

- i. Shattered Lives
- ii. Ladder exchange
- iii. European campaign on risk assessment 2008/09
- iv. What HSE inspectors will be looking at during 2008/09

3. Guidance

- i. HSE Guidance for Warehousing and Storage
- ii. HSE Example Risk Assessment for cold storage warehousing
- iii. Managing asbestos
- iv. Legionella risk assessments
- v. Examination and testing of lifts
- vi. Preventing falls from vehicles

4. Enforcement action

- i. Manual Handling
- ii. Slips and Trips
- iii. Falls from height
- iv. Workplace Transport
- v. Struck by something
- vi. Machinery

We do hope you enjoy our improved health and safety information service. Please contact Joanna Hancock at the BFFF offices on 01476 515300 or e mail joannahancock@bfff.co.uk if you would like to raise any health and safety issues.



1. Legislative Update

Corporate Manslaughter and Corporate Homicide Act 2007

On 6 April 2008, the Corporate Manslaughter and Corporate Homicide Act 2007 came into force. This Act makes it possible for companies to be prosecuted for a new offence of "corporate manslaughter", when the actions (or lack of action) of senior management contribute to a fatality.

A company will be guilty of the offence if it can be shown that the way in which the company manages or organises its activities amounts to a gross breach of a duty of care to the deceased(s).

The Act was introduced following a number of high profile failed manslaughter prosecutions in respect of incidents such as the Potters Bar and Hatfield rail crashes. This was to make it simpler to find companies guilty of manslaughter.

Particular areas of risk for companies may include fire and electrical safety, driving safety, food hygiene, workplace transport systems and falls from height.

The range of penalties which may be imposed include an unlimited fine, plus an order requiring the company to remedy the identified breaches, plus significantly, an order to publicise the conviction. This would be in addition to the inevitable adverse publicity which will be generated if senior management are required to testify in Court.

Current proposals are that fines for the offence of corporate manslaughter will be set by reference to a company's turnover, ranging between 2% and 10% of a company's annual turnover. A serious fine for this offence could therefore potentially be catastrophic for a business.

The Government expects approximately 10-13 prosecutions for corporate manslaughter to be brought nationally each year. This might not seem like a large amount, but this will not matter if your company is one of the first to be prosecuted. For this reason many companies are viewing the introduction of the Act as a trigger to review their existing health and safety policies, risk assessments, crisis management policies and insurance cover.

For further information or advice, please contact Fiona Carter on 0115 976 6224 (fcarter@brownejacobson.com). Fiona is a partner with Browne Jacobson, members of BFFF, and one of the largest law firms in the midlands.

2. HSE Campaigns

Each year HSE plans major initiatives and interventions in an attempt to reduce the incidence of work-related fatal and major injuries. These initiatives are more commonly known as 'campaigns'.

During each campaign, Inspectors visiting premises will focus on the key campaign areas and assess the standards, offer advice and enforce applicable legislation. It is also common during major campaigns that certain businesses will be targeted for inspection based on their activity profile i.e. if their work area is relevant to the current campaign.

In support of the campaigns, publicity and designated web pages are often designed for the processes. Also seminars are often held around the country.

Within this section of keeping it safe, we will inform you of the proposed campaign profile for the forthcoming year. Some of these details may change as the priorities change within the HSE, however the information will provide you with the main areas of focus in the near future.

i. 'Shattered Lives' Campaign - Slips, trips and falls

Although the primary work on this campaign is now complete, nearly 11,000 workers suffered injury as a result of a slip or trip last year. Therefore reducing this unnecessary injury toll remains a priority for businesses and enforcing bodies, and will remain a focus point during any inspection.

One of the focus areas for the campaign was food manufacturing and HSE has developed specific guidance to support businesses to take simple action to prevent slips, trips and falls which you may find useful.

All guidance is available through their web site

<http://www.hse.gov.uk/shatteredlives/index.htm>.

The specific useful guidance includes:

- [Preventing falls from height in the food and drink industries](#)
- [Slips and trips risk mapping tool](#) - an aid for managers and safety representatives in the food retail sector
- [Using access equipment safely in building and plant maintenance](#)
- [Advice on stopping slips in kitchens](#)

ii. 'Ladder exchange'

HSE are planning a new ladder exchange initiative towards the end of the summer. They will be working with partners in the hire industry and local authority to remove substandard ladders out of Britain's workplaces by offering an exchange service. If you are interested in exchanging ladders, updated information will be available on the HSE web site in due course.

iii. European Campaign on Risk Assessment 2008-09

The European Campaign for Safety and Health at Work, formerly known as Euroweek, will this time be a two-year campaign focusing on risk assessment. The campaign will be focusing on portraying two important messages:

- Risk assessment is not an objective in itself but a powerful tool for identifying the need for preventative measures.



And

- It is not just a matter of checking off a list of recognized hazards; it has to take into account the less visible ones, and the interactions between different factors.

The UK's campaign, aimed at employers, workers, safety representatives and other stakeholders, was launched on 24th June 2008. Full details of activities and downloadable tools and materials are available on the HSE web site.

iv. What HSE inspectors will be looking at during 2008/09

From April 2008 HSE inspectors will be looking particularly at the following industries, as these have the higher injury rates. Click on any of the industry names for further statistical information:

- [Fish Processing](#)
- [Bread, cake and biscuit manufacturing](#)

HSE visits to food manufacturing sites will concentrate particularly on the following:

- [Manual handling/ musculoskeletal injuries](#)
- [Slips and trips](#)
- [Workplace transport](#)
- [Falls from height](#)
- [Occupational asthma](#)
- [Safeguarding packaging machines and conveyors](#)

Other topics covered at HSE visits during 2008/09 may include the following:

- [Noise](#)
- [Occupational dermatitis](#)
- [Work-related stress](#)
- [Entry to confined spaces](#)

Don't chance it

CHANGE IT



3. Guidance

i. HSE Guidance for Warehousing and Storage

BFFF is delighted to report the release of new revised Health and Safety Guidance **'Warehousing and Storage- A Guide to health and Safety' (HSG76)**. This guidance has particular relevance to our members with a whole chapter dedicated to **Temperature Controlled Storage**.

Last year there were over **10,000 work-related accidents** reported in the storage, warehousing and road haulage industries. The HSG76 Guidance is intended to support those involved in management, supervisory or other health and safety roles in the **retail, wholesale and general storage industry** to reduce injury and occupational ill health incidents in this area.

HSE tasked the review of this guidance to the HSE warehousing forum. BFFF has been an active member of this Forum since its conception and pro-actively reviewed the guidance to convey our industry's views on practical implications. As such we are delighted to report that BFFF has been able to make a significant positive contribution to this guidance on behalf of the membership. Particularly, we have been able to influence the guidance in the areas of break patterns, Mechanical Ventilation within plant rooms, workplace transport, the Personal Protective Equipment guide and the fact that it is not always operationally practical to operate lift trucks with heated cabs.

We are delighted that this comprehensive and practical guidance book has now been produced for our industry. The revised HSG76 covers all relevant subject areas for Health and Safety within warehouses and provides useful links to where further guidance can be obtained if required.

We are confident that your health and safety and operational employees will find the book a valuable guidance tool to support them with their health and safety obligations. The guidance book is available from HSE Books, ISBN 978 0 7176 62258 priced at £14.50.

ii. HSE Example Risk Assessment for cold storage warehousing

HSE has launched a new guidance document **'Example risk assessment for cold storage warehousing'**.

HSE is continually working to improve the way it regulates businesses to ensure that regulation is proportionate, competitive and principled. This work has included the promotion to businesses by HSE of proportionate risk assessments that adhere to the principles of sensible risk management.

In consultation with **BFFF** and other industry stakeholders, HSE has produced this example cold storage risk assessment to help businesses see what a risk assessment might look like. It hopefully makes clear that a risk assessment should be about identifying practical actions that protect people from harm and injury, not a bureaucratic experience.

BFFF has made a significant contribution throughout the development of this example risk assessment and the resulting format is easy to use and readily demonstrates the risk assessment process. We also feel that the example hazards given are a useful guide and excellent means to assist companies who need a starting point in this area. Further guidance on the hazards highlighted is available in the newly revised HSE guidance HSG76.



It is important to note that although much of the detail will directly relate to many of our members, companies should not simply copy the detail for your own business – HSE advises ‘these examples do not provide companies with a short cut to their own assessment. All businesses have their unique features and the example may cover some hazards you do not have to deal with in your own workplace, and not mention some you do – you will have to take your own ‘5 steps’ when carrying out your own risk assessment. Even where the hazards are the same, the control measures you adopt may have to be different from those in examples so as to meet the particular conditions in your workplace’.

The example risk assessment for cold storage warehouses is available directly from the following web link:
<http://www.hse.gov.uk/risk/casestudies/coldstorage.htm>



Myth: Risk assessments must always be long and complex

Reality: On its own, paperwork never saved anyone. It is a means to an end, not an end in itself - action is what protects people. So risk assessments should be fit for purpose and acted upon.

OK, if you're running an oil refinery you're going to need a fair amount of paperwork. But for most, bullet points work very well indeed.

Check out the HSE web site for examples:
<http://hse.gov.uk/risk/examples.htm>

iii. Managing asbestos

Asbestos is the **greatest single cause of work related deaths** in the UK and it is a priority for HSE to reduce the number of deaths caused by occupational exposure to asbestos.

The revised asbestos regulations came into force on 13th November 2006 which now includes the ‘duty to manage asbestos’ for people responsible for non-domestic premises. This is directed at the people with responsibility for protecting others who work in such premises, or use them in other ways, from the risks to ill-health that exposure to asbestos causes.

The ‘duty to manage’ part of the regulation requires:

- taking reasonable steps to find asbestos-containing materials in premises and checking their condition;
- presuming materials contain asbestos unless there is strong evidence to suppose they do not;
- keeping an up-to-date written record of the location and condition of asbestos-containing materials;
- assessing the risk of exposure to asbestos-containing materials;
- and preparing and putting into effect a plan to manage the risk.

HSE has produced new guidance for duty holders including a simple eight-step process to managing asbestos in buildings. This is available direct from the HSE web site <http://www.hse.gov.uk/pubns/managiasbestos.pdf>



The financial costs can also be significant where companies fail to manage asbestos. In October 2007, a major outdoor and sports retailer was fined £150,000 for the discovery of asbestos fibres at their premises. The fibres had been discovered in a basement stock room but the company had failed to ensure that recommendations to reduce the risks made in a report, commissioned by themselves, were adhered to and the company had allowed their staff to continue to use the stock room despite the risks. Likewise an environmental company was also fined £12,000 in October when it was found that the company's employees were not taking proper precautions during the removal of asbestos from a building.

The management of asbestos is relevant to the majority of BFFF members. HSE has developed significant useful guidance on their web site to guide businesses in the area of asbestos. They are available through the web link:

<http://www.hse.gov.uk/asbestos/index.htm>.

Further more detailed guidance on the duty to manage asbestos can be found in the approved code of practice 'The management of asbestos in non-domestic premises'. (L127) available from HSE Books:

<http://www.hse.gov.uk/pubns/books/l127.htm>

iv. Legionella Risk Assessments

A recent BFFF Health and Safety Working group meeting raised the issue of Legionella risk assessments and requested clarification on the requirements for businesses in our industry. This article aims to address this area and provide useful links for further information.

The control and prevention of legionnaires disease is a requirement within the Health and Safety at Work etc Act 1974 and the Control of Substances hazardous to Health regulations 1999.

The legal requirements state that people operating systems such as cooling towers and other **industrial hot water systems**, must ensure that they are operated and managed in such a way as to prevent the risk of exposure to legionella bacteria. Therefore any business operating a building that has water distributed around the site via pipe work, tanks and other equipment containing or transferring water, has to take measures to control and prevent legionnaires disease.

HSC has published an approved code of practice titled '**Legionnaires' disease. The control of legionella bacteria in water systems. Approved code of Practice and guidance**', commonly referred to as L8, which describes the legal duties and provides practical guidance on how to comply with the law. It requires duty holders to:

- Look for and assess the risks of legionnaires' disease associated with the type of work that they are doing;
- Appoint a person to have managerial oversight;
- Prepare a plan or a scheme to ensure that the risks are controlled; and
- To put that plan into action.

To ensure that precautions continue to be carried out and the adequate information is available for checking what is done in practice, a record should be kept showing the information specified in the Approved Code of Practice (ACOP). Precautionary measure and treatments, monitoring results and remedial work should be logged and signed for or initialed by the person who has carried out the work. Sufficient information should be recorded to show that measures have been taken and how they have been monitored.

For a risk system for a cooling tower, the scheme would include a programme of:

- a regular programme of inspection and maintenance of the cooling tower;
- a programme of regular cleaning and disinfection of the cooling tower;
- a programme to ensure that the cooling tower is dosed with a 'biocide' (a chemical which prevents legionella bacteria from growing); and
- a programme of monitoring to ensure that this biocide dosing is effective.

It is also necessary to keep records of what is being done to demonstrate that the duty holder is doing everything that they can and should be doing to ensure the cooling tower is being operated safely.

The approved code of practice, L8, is available from HSE Books ISBN code 0717617726 priced at £8.00. There is also a series of useful information on the HSE web site including details of what can go wrong which was clearly illustrated through the Barrow- in -Furness incident where seven members of the public died and 180 suffered ill health as a result of an outbreak of legionella. [Click here](#) for direct access to the HSE web pages.

v. Examination and testing of lifts

Many BFFF members have the requirement to utilise lifts within their operation for either the movement of people or loads. The Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) introduced new requirements for the safe provision and use of lifting equipment. Regulation 9 of LOLER requires that all lifts provided for use in work activities are thoroughly examined by a competent person at regular intervals. This applies to lifts and hoists used to lift people or loads.

Lift owners, or someone responsible for the safe operation of a lift used at work, such as a facilities manager or supervisors are a 'dutyholder' under LOLER. This means that they have a legal responsibility to ensure that the lift is thoroughly examined and that it is safe to use.

HSE have launched a web-based leaflet, which explains what you need to do to comply with the law. The leaflet includes information on:

- What is a thorough examination?
- Role of the dutyholder
 - Selecting a competent person
- The thorough examination
 - Examination schemes
 - Action following notification of defects
 - Documentation
 - Record keeping
- Sources of further information

The full HSE guidance document is available to download [here](#).

vi. Preventing falls from vehicles

More than 2,000 serious injuries to people falling from vehicles are reported to HSE each year. Many of these injuries are broken arms or legs, resulting in weeks off work and possible loss of earnings. There are probably many more injuries that are not reported.

Getting on and off a vehicle to carry out loading / unloading operations and working at height on the vehicle are often viewed as incidental to the main job. Therefore, the risks involved are not always properly considered by managers (and workers).

To minimise the risks of falls from vehicles and prevent losses to business, the HSE advises:

- Careful assessment of the tasks involved and planning loading and unloading to minimise work at height. They advise that businesses should get help from the workers who use the vehicle- they know how the job is really done and normally have good ideas about how to make it safer and more efficient.
- Make sure people working on vehicles have slip resistant footwear.
- Consider giving a tool box talk and hand out the HSE guidance pocket card for drivers 'Preventing Falls from vehicles' to all relevant workers. This is available in English, Polish and Welsh. See below for direct web links to the pocket card:

[English Version](#)

[Polish Version](#)

[Welsh Version](#)

HSE reports that there has been a good response to the pocket card. However the effectiveness of all solutions described above depends on them being used. Therefore HSE advises that businesses will need to have procedures in place to check that systems of work are being followed.

4. Enforcement Action

As part of our partnership work with the Local Authority (LA) and the Health and Safety Executive (HSE), we are able to provide information to all members regarding relevant prosecutions on Health and Safety related matters.

For your information, we have stated below brief details regarding some of the latest examples of prosecutions categorised into the **main causes of injury in the food and drink industry**.



HSE reminds employers of their legal duties to employees engaged in manual handling

HSE reminded companies of their legal duties relating to manual handling after an employee was injured when a 50kg sack of basmati rice fell on his neck.

East End Foods plc, on the 22nd January 2008, pleaded guilty to failing to take reasonable care for the health and safety of employees under Section 2 (1) of the health and safety at work etc Act 1974. East End Foods plc was fined £25,000 with £28,000 costs.

It transpired during the investigation of the accident that large consignments of 50kg sacks of rice were routinely manually offloaded from containers without the use of mechanical aids. Access to containers and retrieval of initial sacks of rice was also being carried out by employees being raised and lowered on a pallet placed on the forks of a forklift truck.

Speaking after the case, HSE reminded employers of their 'legal duties to take reasonable care of the health and safety of employees. In the food and drink industry, 30% of all acute injuries result from bad practice in manual handling.'

'Stacking and de-stacking sacks, boxes and crates are amongst the top five causes of manual handling injuries in the food and drink industry. Studies have shown that three quarters of these injuries are preventable- that's why the HSE is vigilant in ensuring employers follow the rules and regulations set out for their industry.'



Accidents in the workplace can shatter lives

The HSE Shattered lives campaign highlighted an accident whereby a worker carrying a box through a cold store at work, slipped on some ice that had built up around the cold store door. The ice build up had been caused by a broken door allowing too much ice to build up.

The employee's knee was shattered during the fall and he suffered a fractured skull. His injuries meant that he had to have a pin inserted into his knee cap to ease the problem, but he will be left with a permanent limp. Although the employee returned to work after his injuries, he left the job just three months later as he lost total trust in the company.

The company had been aware of the ice build up before the accident, but failed to do anything about it. Therefore they were fined £15,000 for their negligence. As a result of the accident the company changed the door to the cold store, which would have saved them money if they had done it earlier.

iii.



HSE warns companies of Risk of Working at Height as Prosecution follows Sheffield fatality

In October 2007, HSE warned companies of the risks of working at height following the prosecution of a company after a fatal incident. The worker was fatally injured when he fell some eight metres from the edge of a fixed platform which had some of the protective guardrail temporarily removed.

The company was fined £25,000 with £5000 costs and the Managing Director was fined £2500 and orders to pay £500 costs. The company was charged with an offence under Section 3 (1) of the Health and Safety at Work etc Act and the Managing Director charged under Section 37 (1).

The HSE inspector said 'This was a serious breach of obligation to both its own staff and visiting workers, indicative of failure by the company to appreciate the risks from such complex work.'

iv.



HSE warned employers to undertake risk assessments after worker dies falling from a lorry

HSE warned employers of the need to make proper risk assessments to manage their employees' health, safety and welfare. This warning came after a HSE prosecution resulting from the death of a Wirral lorry driver.

TNT Logistics UK Ltd were fined £120,000 and ordered to pay costs of £28,184.75 after pleaded guilty at Manchester crown court to breaching section 2 (1) of the Health and Safety at Work etc Act 1974.

The driver suffered fatal injuries when he fell off a lorry parked at TNT's premises. He was trying to help free a worktop on the back of the lorry when he fell approximately two metres onto the concrete yard.

HSE inspector said:

'Employers and self-employed people operating lorries need to avoid the need for work at height on the lorry wherever possible. Where that is not possible, they must take measures to prevent falls. Companies should ensure staff are adequately trained in how to reduce the risks. Climbing on top of loads should be avoided wherever possible and permanent platforms or gantries may assist with this.'



v.



Distribution company prosecuted after an accident crushed a worker

A distribution company FGF was fined £40,000 and ordered to pay more than £10,000 in costs at Leeds Crown Court after an accident that crushed a worker, leaving him paralysed and wheelchair dependent. The company stores and distributes insulation materials and the worker was injured when a stacked pallet of insulation fell onto him during stock picking.

The court heard that the lead investigator had found risk assessments were inadequate and individuals within the company with health and safety responsibilities were not sufficiently trained or competent. Likewise they had failed to heed earlier warnings about the adequacy of their health and safety arrangements.

The company pleaded guilty to one charge under section 2 (1) of the Health and Safety at Work etc Act 1974.

vi.



HSE warns of the dangers of unguarded machinery as a Manchester tile company is fined

HSE is warning employers to ensure they have effective measures in place to prevent access to dangerous parts of machinery. The warning follows HSE's prosecution of a Manchester company after a maintenance

engineer lost the tip of his finger. On the 4th April 2006, maintenance engineer Brian Wallis caught his fingertip in the running machinery of the conveyor belt he was adjusting when it suddenly started up.

Pilkington Tiles Ltd were fined £18000 and ordered to pay costs of £7500 at Trafford Magistrates court after pleading guilty of breaching Regulation 11 (1) of the Provision and Use of Work Equipment Regulations 1998 (PUWER) and section 2 (1) of the Health and Safety at Work etc Act 1974.

PUWER Reg 11 (1) states that every employer shall ensure that measures are taken which are effective to prevent access to any dangerous part of machinery or to any rotating stock-bar; or to stop the movement of any dangerous part of machinery or rotating stock-bar before any part of a person enters the danger zone.

HSE inspector Sandra Tomlinson said 'This was a wholly avoidable incident had the company followed the correct procedures. The danger of unguarded machinery cannot be highlighted too much. It is the employers duty to ensure that risks to safety within the workplace are adequately assessed and that correct control measures are implemented to avoid injury'

