

KEEP IT SAFE

BFFF QUARTERLY HEALTH AND SAFETY UPDATE

FEBRUARY 2010 EDITION

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

Many of you will have seen our 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.

We do hope you find 'Keep It Safe' a valuable read. Please contact BFFF on 01400 283090 or email joannahancock@bfff.co.uk if you have any health and safety issues or wish to receive additional/back copies

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All reasonable care is taken in the preparation of this newsletter, but no liability is accepted for any loss or damage caused to any person, company or organisation relying on any statement or omission in the contents.

BFFF Health and Safety Initiatives Update

H&S Working group

The BFFF H&S working group provides the membership with a confidential health and safety forum focusing on issues relevant to our industry.

The past quarter has seen a variety of health and safety issues affecting the membership. The main focus has been the completion of the new guidance for work at height equipment for the cold storage industry. We were delighted that following many years' work and excellent collaborative input from the membership, BFFF agreed the final guidance with HSE in December. Prior to the agreement of the new guidance, companies that were regularly using non integrated working platforms for planned work were in breach of the HSE guidance in this area and as such were potentially liable for prosecution. The new guidance lays out a hierarchy of the alternative work at height equipment available to cold store operators and should companies decide to use a non integrated working platform for planned work, the guidance provides examples of elements that should be included within a safe system of work. Further details can be found in the guidance section of this newsletter.

Other topics for discussion by the working group included the increasing incidence of noise induced hearing loss claims and the consequences of the freedom of information act on individual compensation claims against businesses. Further details are included later within this newsletter.

I can also report that one of the working group members is running an IOSH working group looking into the issue of Dock Creep/ Bay Walk. The BFFF working group has contributed data on the matter and the issue is thought to be commonplace throughout the industry. The feedback so far is that the project has identified a mis-match between the dock and trailer specifications which they believe possibly contributes to the risks of dock creep and does not facilitate the use of a universal vehicle locking mechanism. The next stage with the group is that they will be meeting collectively with dock and trailer manufacturers at the beginning of 2010 to look at possible solutions.

This Health and safety forum is open for all members to anonymously raise their health and safety issues for group feedback and advice. Therefore please feel free to contact Joanna Hancock by e-mail joannahancock@bfff.co.uk or on 01400 283096 with any issues you wish to raise.

Health & Safety pledge

We re-launched the pledge after its first anniversary and I am delighted to report that now over 50 members have signed up. This is an excellent response and shows the industry's willingness to work collaboratively to improve health and safety and share best practice.

If you have not already signed up and wish to do so, please contact Joanna Hancock by e mail joannahancock@bfff.co.uk or on 01400 283096 for further details.

Shaping the future of forklift truck driver competence and training

HSE are holding an event in February to gather ideas from business on the best way to help employers deal with issues surrounding driver training and competence for operators of forklift trucks and other similar workplace vehicles.

The main purpose of the event is to discuss four key areas being:

1. Should the same training principles apply to all worksite vehicles and mobile plant or are any areas significantly different?
2. What needs to happen about ongoing competence and the continued professional development of drivers?
3. What issues arise with drivers from elsewhere in Europe (and further afield)? How is overseas training recognised and understood? What are the issues when our drivers go to work in Europe?
4. How can HSE help small businesses deal with issues around operator training?

I will be attending this event on behalf of the membership. Please feel free to provide me with any feedback on the above four points for inclusion within my discussions. I can be contacted by e-mail joannahancock@bfff.co.uk or on 01400 283096 for further details.

If you would like us to raise any points for anonymous discussion with HSE and LA, then please contact Joanna Hancock by e mail joannahancock@bfff.co.uk or on 01400 283096 for further details.

BFFF LAPS Agreement

BFFF has a unique partnership agreement with both HSE and Local Authority whereby we have the opportunity to meet with them on a regular basis to raise industry issues. Once again our agreement has provided us with excellent case studies, and an insight into the main areas of focus for the enforcing authorities throughout the year. Full details are included within this newsletter.

Future Events

HSE Business advice open days are being run throughout the year. The open days cover all aspects of business including Health and Safety issues. They are manned by a full team of business experts who aim to help businesses to meet and understand their legal responsibilities. They also aim to help businesses to enhance their operations through the use of new technology and better marketing techniques.

Confirmed business advice open days for the next few months are as follows:

Location	Date(s)	Venue
Newark	Wednesday 3 March	Kelham Hall
Catterick	Thursday 18 March	The Scotch Corner Hotel
York	Thursday 25 March	York Racecourse

Other events of interest over the next few months are:

Event	Location	Date	Venue
IOSH 10: Making the Case for Health and Safety	Glasgow	24-25th March	Scottish Exhibition and Conference Centre

HSE FOOD INDUSTRY CASE STUDIES

Fall from Non-Integrated Working Platform

Falls from height remain the most common type of workplace fatality. Working at height is a high-risk activity and the planning, selection and use of a safe means of access and working area cannot be stressed too much. The following case study provides a summary of an accident to an employee who was injured when a non-integrated working platform fell from a raised forklift truck (FLT).

Summary

A fruit processing company in the South East were prosecuted following an accident to an employee who was injured when a non-integrated working platform fell from a raised forklift truck (FLT).

The employee had been asked to help replace a ceiling lamp in the packhouse. As she isolated the power supply to the lamp, another employee went to fetch the FLT which already had the non-integrated working platform on its forks.

After she got into the platform, the driver began to raise the forks as he manoeuvred around machinery on his way to the work area. While moving, the platform, which had not been secured to the FLT, fell approx 1.5 metres onto the concrete floor below. She suffered two broken ribs from the fall.

The driver was not authorised to use the machine and had not checked whether the platform was secure before use. He assumed it was secure because he had worked inside it shortly before the incident.

The 100x100x120cm platform is usually secured to the FLT via a chain wrapped around the lifting carriage of the truck and is secured by D-shackles with bolts to welded brackets on the platform. It was used on a daily basis for stocking checking and inspection as well as lamp repair/replacement.

The company was unaware of the limitations to the use of this equipment. Their risk assessment for its use was inadequate; there were no written instructions or warning signs attached to the platform; and there were no measures to prevent unauthorised use of FLT's (e.g. control of keys).

Neither employee, both of whom are part of a large East European migrant workforce, had received training in its safe use or had access to instructions written in their own language.

Action

The company were prosecuted under Section 2(1) of the Health and Safety at Work Act 1974 for failing to ensure, so far as is reasonably practicable, the health and safety of the employee. They were found guilty and fined £3,000 with an additional £3,224 in costs awarded against them.

Advice

This type of accident was entirely foreseeable.

The new BFFF work at height guidance titled 'Guidance on the selection of appropriate work equipment for work at height activities within a cold store environment' and HSE Guidance note PM28 provides comprehensive and clear information on the limitations of use of non-integrated working platforms. This includes guidance how they should be used safely and what information, instruction and training to provide to employees.

Unauthorised use of lift trucks by untrained users is foreseeable and is easily preventable. Not only was this referred to in the company health and safety policy, guidance is given in HSE publication HSG6 *Safety in Working with Lift Trucks* that keys must not be left in lift trucks to prevent unauthorised use.

Poor Electrical Insulation Causes Electrical Burns

Summary

A food company were prosecuted following an accident to an employee who suffered electrical burns while training two other workers.

The accident occurred in the refrigeration plant room, which served a blast chill chamber in which freshly slaughtered carcasses are blast chilled. The employee, a Services Team electrician, had been asked at short notice to demonstrate to three mechanical engineers how to carry out Planned Preventive Maintenance (PPM) checks on an electrical motor that drove a refrigeration compressor unit. This was one of six compressor units that formed the refrigeration system. He chose to repeat a PPM check that he had carried out the previous day because he still had the job card.

The six motors did not have individual isolator switches. The electrician did not isolate the panel at the main distribution board because this would have turned off the whole of the refrigeration system. Instead he used one of the control switches for the six individual motors that were mounted on the front door of the control panel. This ensured that although the 3-phase supply arrangements up-stream of the switch remained live, the motor was not under load. The electrician then opened the control panel, which exposed the motor's fuses, as well as the live, unshielded bus bars.

He then removed the three individual phase fuses serving the motor. The fuses were live but not passing current when he did this. This meant that the motor was now electrically isolated by physical means from the mains supply, and not just by the control circuit switch. He then carried out the required maintenance work on the motor.

The final check required measurement of the phase currents when the motor was on-load. To ensure that the motor would be on full-load, he switched off all the other motors so that the system was totally reliant upon the single motor. As he replaced the first fuse there was a short circuit and an electrical flashover, causing flash burns to his face, hands and arms.

One of the other engineers, who were standing next to the electrician, also suffered lesser burns. Both were taken to hospital. The investigation showed a very poor standard of electrical

protection within the control cabinet. There was no electrical interlock fitted to the panel door; no shielding of the bus bars; no insulating covers over the fuse holder terminals; no insulating barriers between adjacent fuses holders; the fuse groups were not in the same order as the motors they served; and there were no circuit drawings available. It was not clear what caused the flashover, but it seems likely that the electrician inadvertently shorted between unshielded adjoining phase fuses carriers. A contributory factor may have been that the lighting in the plant room was poor because the lighting fittings were being changed and a number were not working at the time of the accident. The decision to informally train up mechanical engineers to carry out the checks on the electric motors was also a matter of serious concern.

Action

The company pleaded guilty under Section 2(1) of the Health and Safety at Work Act 1974 for failing to ensure so far as reasonably practicable the health and safety of their employees. They were fined £8,000, with an additional £3,339 in costs awarded against them.

Advice

Electricity kills and injures people. Around 1000 electrical accidents at work are reported to HSE each year and about 30 people die of their injuries. The poor standards of electrical protection in the panel at the control cabinet made it readily foreseeable that an accident could occur due to contact with live conductors.

All work should be thoroughly planned to provide a safe system of work. This includes isolating the electrical supply. The absence of individual isolator switches on the compressor motors in the refrigeration plant room made it more likely that the panel would be accessed when it was live.

People working on electrical equipment, machinery or installations must be competent to do so. The level of competence required to do a task is dependent upon the complexity of that task and the amount of knowledge required.

Further information can be found in HSE leaflet Electrical Safety and You

www.hse.gov.uk/pubns/indg231.pdf which provides details of how you can work safely near electricity, or from the electricity pages on HSE's website at

www.hse.gov.uk/electricity/index.htm.

HSE Campaigns

Each year HSE plans a series of campaigns based on particular health and safety topics aimed at reducing the incidence of work-related fatal and major injuries.

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 i.e. if their work area is relevant to the current campaign.

Within this section of Keep 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.

Hidden Killer Campaign

Every week, 20 tradesmen die from asbestos-related disease and firms have been heavily fined for failing to control work properly in buildings where asbestos was present. In this context, it has introduced a website which aims to give employers and workers access to all the information they need to be able to treat this potential killer with the care it demands. Although the site is mainly aimed at tradesmen and contractors, it also carries valuable resources and information for other types of employer and for people involved in the maintenance of their building.

The site answers questions such as “what is asbestos?” and “can it really kill you?” The answer of course is yes, it can, through one of several diseases — including mesothelioma, a cancer which affects the lining of the lungs (pleura) and the lining surrounding the lower digestive tract (peritoneum), and asbestosis, a scarring condition of the lung that normally occurs after heavy exposure to asbestos over many years.

The campaign can be accessed at <http://www.hse.gov.uk/asbestos/hiddenkiller/index.htm>.

HSE Focus for Food Manufacture Industry

The HSE's main enforcement focus for the food manufacture industry in 2010 remains the management of health and safety and, in particular director/board level leadership and worker involvement.

Other topics that HSE inspectors are likely to examine remain:

- **Migrant Workers and other vulnerable workers.** Good management practice and compliance with legal responsibilities;
- **Risk Management.** Competent management in terms of basic, sensible and proportionate health and safety also competency of any health and safety consultants contracted;
- **Musculoskeletal Disorders (MSDs).** Whether tasks causing high risk of manual handling injuries and consequent ill health have been addressed, including awareness of upper limb disorders (ULDs) and use of available tools for assessing repetitive injuries;
- **Noise and Vibration.** Good practice in controlling noise and vibration, including health surveillance;
- **Falls from Height.** Preventing falls from height by using appropriate equipment and safeguards;
- **Dermatitis.** Prevention of control of dermatitis caused by contact with food products, cleaning agents etc by elimination of the risk where possible, skin checks, hand-care regime and correct glove selection and use;
- **Machinery.** E.g. compliance with Supply of Machinery (Safety) Regulations;
- **Loading and Unloading of Vehicles.** Management of workplace transport around loading bays and MSD/back injury prevention;
- **Slips and Trips.** Management of control measures to prevent injuries caused by slipping on food products, wet floors etc..
- **Occupational Asthma.** Prevention of occupational asthma from flour and other dusts.

LEGISLATIVE UPDATE

Freedom of Information Act 2000 - One Person's Freedom, Another's Prison

This act has been around for some time, however our working group has reported that members of the public (including employees) are becoming increasingly confident in making Freedom of Information requests. This has resulted in some members reporting that information disclosed to enforcing authorities in good faith, has been used in a detrimental way against their company. As such this article from Browne Jacobson provides members with brief details of the act and pointers for company strategy on information disclosure.

Background

The Freedom of Information Act 2000 ("FOIA 2000") was introduced in response both to a public demand for access to information held by public authorities, and a desire on the part of Government authorities to prove themselves to be transparent communicators.

Implemented on New Year's Day 2005 the obligation to disclose information depends on a balance of competing aspects of the public interest. Although disclosure should be made there are 23 exemptions. The exemptions are subject to a 'public interest' test. This means that although the exemptions suggest disclosure does not need to be made, disclosure must nevertheless be made if it is deemed to be in the public interest. The public interest test is that information must be disclosed unless "in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information".

Rights

There are effectively two rights under the FOIA 2000. (1) The right to be informed whether the information is held and (2) the right to have that information disclosed.

The right to information is retrospective. In other words, it doesn't matter if the information predates the Act. Nor does it matter if the information might have been given to a public authority at a time when the person or company giving the authority would never have thought it would be disclosed. Both individuals and companies have this right.

The right to information is subject to both absolute and qualified exemptions. Absolute exemptions mean the duty to disclose does not apply. Qualified exemptions mean that the duty to disclose only applies if the specific exemption outweighs the public interest in disclosing the information. This has resulted in an apparent presumption in favour of disclosure. Members of the public are becoming increasingly confident in making FOI requests.

BFFF member case study

A recent meeting of the BFFF Health and Safety Group highlighted a creative request. A member was investigated by the HSE following an incident at their workplace. Quite properly, the member cooperated with the request for information, and for disclosure of documents and so on. In an effort to not only assist the regulator but also avoid any future prosecution, the member chose to give more rather than less information. Disclosure included information that was confidential and sensitive to the business operation.

Some time later, the HSE received an FOI request for that information. Although, the member was quite happy to share its confidential and sensitive information with HSE, it did not take the same view about the information being given to an unknown third party. (Although it is possible that if a claim for damages arose out of the same incident that was being investigated by HSE then an individual might bring a civil claim against the company. This would trigger separate duties of disclosure). However at this early stage the member quite rightly considered whether or not it could prevent HSE from making disclosures under the Freedom of Information request.

Response to request

There are a range of possible exemptions that the member could invite the HSE to apply when responding to the FOI request. The most obvious are:

- the information is confidential (section 41);
- the information would prejudice the commercial interests of any person (section 43);
- the information is held for the purposes of an investigation and proceedings are being conducted by public authorities (section 30).

Confidential Information

This is an example of an absolute exemption. This means that the HSE would not have to consider the public interest test. However, a member who wanted to prevent disclosure would have to demonstrate that the information was, in fact, confidential.

Commercial Interests

Whilst this exemption seemingly provides considerable scope for a member to argue that the HSE should not disclose the information through the FOIA to a third party. The exemption has been notoriously difficult to rely upon over the last 5 years. The Information Commissioner's Office (the "ICO"), which enforces the FOIA has published guidance on this exemption (along with all other exemptions under the FOIA) which notes that the exemption would only bite if the information in question either amounted to a trade secret or would, for example give a competitor an unfair commercial advantage if that information was published.

Purposes of an investigation

This is another qualified exemption. However, the HSE would still need to consider the public interest test. The ICO has, again, provided detailed guidance on the application of this exemption which notes that, if the investigations

by the public authority are concluded or no prosecution or further proceedings occur, the public interest in seeing the information may well outweigh the BFFF member's interests in preventing disclosure.

Third party personal information (such as employee or other personal data) and **Legal professional privilege** – might also apply.

Powers of regulators

Whilst the focus of the request was the FOIA 2000, this has to be balanced against the powers of a regulator to require information that is not voluntarily given. This could be not only by the HSE but the Environment Agency, Trading Standards or other public authority).

Most Legislation gives properly appointed inspectors authority to act and on reasonable notice or at a reasonable time to enter premises and request information, documents, photographs and so on to facilitate an investigation.

Beyond that in any civil proceedings there is a separate duty of disclosure between the parties as noted above. This can often result in documents that have been acquired in the course of the investigation being disclosed to the other party.

Policy

What can be seen from these competing and balancing powers is that members should consider their strategy and policies on disclosure to regulators at some stage well before a request is made.

It is important that members and their employees including front line staff understand the complex powers of a regulator and the legislation to which the regulators are themselves subject (Freedom of Information and Data Protection).

Because the regulator only has 20 days in which to respond to any FOI request, it is important that the suggested exemptions noted above are clearly applied at the time that the potentially sensitive document is generated. The exemptions should not be applied in a "blanket" fashion because this will undermine any claim for

protection. Equally if the protection is considered on a document-by-document basis then the arguments will be far more credible if they have to be relied on at some future date when an FOI request is made.

For more information or detail of any aspect of this article please feel free to contact:

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First Aid Changes

From 1 October 2009, the Health and Safety Executive (HSE) introduced new arrangements to the first-aid training regime. They do not require any change to the current legislation but require that to comply with the Health and Safety (First-Aid) Regulations 1981, first-aiders provided by an employer in the workplace for the purposes of the regulatory requirements must hold a certificate of competence in either first aid at work (FAW) or emergency first aid at work (EFAW).

The FAW qualification has been reduced from a four-day to a three-day course, and may be issued by a training organisation approved by HSE. The EFAW qualification is a one-day course issued by a training organisation approved by the HSE or a recognised awarding body, to award an accredited qualification in EFAW applying a training standard set by the HSE.

The new first-aid training arrangements have been designed to offer employers more training options for first-aiders. In addition, the training time taken to achieve compliance with the legislation will be reduced. Finally, more frequent training will be required through annual refreshers in order to improve the competency of first-aiders by maintaining their basic skills.

The new training arrangements do not affect first-aiders holding a valid FAW certificate obtained under the existing arrangements. However, where

a first-aiders has retrained after 1 October 2009, the new arrangements will apply.

Health and Safety Myth



The myth: People don't have to take any responsibility for their own health and safety

The reality: Employers have a duty to protect workers and the public from dangers caused by their work – and HSE is committed to making sure they do that. But health and safety isn't entirely someone else's responsibility. We all have a duty to keep ourselves safe, by co-operating with safety measures and not putting ourselves and others in danger. This is just common sense – something we all use every day. It's important that we aren't put at risk by other people's actions, but if we ignore our own responsibilities, real risks can get missed. Playing the blame game doesn't keep people safe – better to reply on common sense and co-operation.

GUIDANCE

New work at height guidance for the frozen food and cold storage industry

BFFF is delighted to announce the launch of new work at height guidance for the frozen food and cold storage industry. This guidance has been developed by BFFF and FSDF following full consultation with the Health and Safety Executive (HSE).

Most cold store and frozen food operators, which equates to the majority of the BFFF members, require access for work at height activities. Due to the harsh climatic environment within a cold store there is a lack of current state of the art technology providing work at height solutions for the industry. Consequently prior to the agreement of this new guidance, many cold store operators were in breach of existing HSE guidance in this area by regularly utilising non-integrated working platforms for planned work. This meant that companies were potentially liable to prosecution and the industry lacked practical safety guidance in this area.

You will be aware through our updates that BFFF has been working with HSE for some time to resolve the current issue on work at height within freezer environments and to deliver a solution for the industry. Following a health and safety issue raised by the membership, BFFF circulated a Health and Safety survey in order to establish the current working practices within our industry with regards to working at height within cold stores. We had an excellent response from the survey and were able to build a clear picture of current practices. Our survey showed that the majority of companies were unable to comply with previous HSE guidance in this area and non-integrated working platforms/ permissioning controlled working platforms were being used by the industry for planned work.

It is through the collaborative working of the BFFF membership that we were able to clearly

present our industries case to the HSE regarding actual working practices within the industry. As such, HSE accepted that there is a lack of current state of the art technology in readily available equipment to enable cold store operators to fully and safely adhere to all the guidance laid out within HSE guidance note PM28. This presented the opportunity for BFFF to work with HSE to provide this new practical guidance for the industry.

The resulting new guidance is supplementary to existing HSE Guidance note PM28, and supports cold store operators in their selection of work at height equipment by outlining a hierarchy of the alternatives available. The guidance is relevant to both planned and unplanned activities within a cold store environment and is therefore not restricted to exceptional use. Examples of planned activities within a cold store include stock taking, planned maintenance tasks such as racking safety checks and lighting checks as well as checks on the integrity of the building insulation. The guidance also supports members by including some examples of elements to consider in developing a safe system of work for the operation of lift truck and non-integrated working platform combinations.

We are delighted to have had the opportunity to work with HSE to provide this important practical guidance for our industry. This new supplementary guidance will support the industry to improve their health and safety practices by providing relevant and practical advice. We would also like to take this opportunity to thank all the members involved in this project for their open responses and invaluable contribution on behalf of the membership.

Further detailed information and copies of the guidance are available from Joanna Hancock joannahancock@bfff.co.uk and on the BFFF website - www.bfff.co.uk. Click [here](#) to view the new guidance document.

Controlling Noise

Our members have reported that employers' liability claims for noise induced hearing loss from past and present employees are starting to increase. Hearing loss caused by exposure to noise at work continues to be a significant occupational disease. Some 170,000 people in the UK suffer deafness, tinnitus or other ear conditions as a result of exposure to excessive noise at work. Hearing loss caused by work is preventable, but once your hearing has gone it won't come back. Therefore we have taken this opportunity to provide the membership with guidance on this subject.

Noise is simply defined as any unwanted sound. Exposure to excessive levels of noise for a long period of time can be damaging to the hearing of employees. Noise at a level that is not loud enough to be physiologically damaging can cause stress and fatigue.

If someone has to raise their voice to be heard over a distance of around 1.5 metres, a noise assessment is probably necessary. As a result of a noise assessment, measures may need to be taken by the employer to eliminate or reduce the risk. Risks from noise should be reduced or eliminated by technical and organisational means before considering control by the use of hearing protection.

Employers must ensure that a "competent person" carries out the noise assessment. A competent person is defined as someone able to produce an assessment and report. Competent persons do not necessarily have to perform all the noise measurements themselves; they may only need to supervise the collection of noise data and exposure information by other persons qualified to obtain the data, and make use of this information in their final assessment.

The Control of Noise Regulations 2005 identify the following Exposure Action/Limit Values:

Lower Exposure Action Value	<ul style="list-style-type: none"> ▪ a daily or weekly personal noise exposure of 80dB (A-weighted) ▪ a peak sound pressure of 135dB (C-weighted)
Upper Exposure Action Value	<ul style="list-style-type: none"> ▪ a daily or weekly personal noise exposure of 85dB (A-weighted) ▪ a peak sound pressure of 137dB (C-weighted)
Exposure Limit Value	<ul style="list-style-type: none"> ▪ a daily or weekly personal noise exposure of 87dB (A-weighted) ▪ a peak sound pressure of 140dB (C-weighted)

At or above the lower exposure action value, an employer must provide ear protection if requested by an employee. If the noise level reaches or exceeds the upper exposure action value, an employer must provide suitable ear protection, regardless of whether or not it has been requested by an employee.

Clearly marked hearing protection zones should be established where upper exposure action values are reached. Suitable ear protection must be worn at all times in these zones.

Employees must be provided with information, training and instruction on the risks of hearing damage, the control measures in place and the use of protective equipment to enable them to continue with their tasks with the least possible damaging effect to their health.

The employee has a duty to wear any appropriate ear protection provided, and use any other controls provided to reduce risk. Employees must also co-operate with the employer and attend hearing checks when required.

Further guidance can be found at the HSE's noise microsite at www.hse.gov.uk/noise/index.htm, including a noise exposure 'ready reckoner' which allows estimates of daily or weekly noise exposures.

HSE also provides an information sheet on 'Reducing noise exposure in the food and drink industries' at:

<http://www.hse.gov.uk/pubns/fis32.pdf>

HSE has funded some relevant research that you may find useful relating to the ear protection available. The first is 'Market Surveillance of custom-moulded ear plugs':

<http://www.hse.gov.uk/research/rrpdf/rr727.pdf>.

This is a study of a selection of CE marked custom moulded earplugs available in the UK to examine the protection provided by such devices, and to identify any influencing factors on protection, comfort and fit. The second research is 'Real world use and performance of hearing protection'

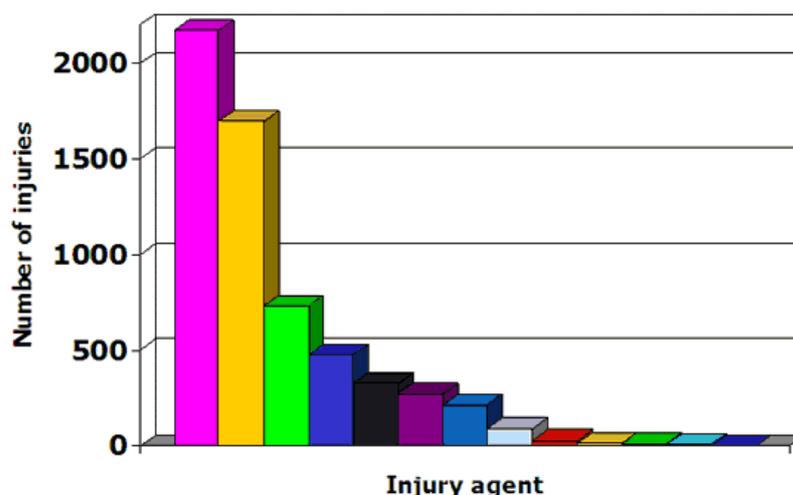
<http://www.hse.gov.uk/research/rrpdf/rr720.pdf>.

This report considers the effectiveness of hearing protectors in everyday work situations.

Causes of Injury in Food Manufacture

The HSE states that a quarter of all manufacturing injuries still occur in the food industry. In the ten year period April 1998 to March 2008 nearly 89,000 workers in the food and drink industries suffered an injury reportable to HSE and there were 37 fatal injuries.

HSE provides the following figures on the main causes of injury in food manufacture, based on their analysis of 6138 major and 'over 3 day absence' injuries:



Key

- Manual handling (35%)
- Slips/trips - mostly slips (28%)
- Hit by moving/falling object (12%)
- Moving machinery (8%)
- Hit something fixed/stationary (5%)
- Contact with harmful substance (4%)
- Fall from height (3%)
- Hit by moving vehicle (1%)
- Injured by animal (0.4%)
- Electricity (0.2%)
- Physical assault (0.2%)
- Fire/explosion (0.1%)
- Drowned/asphyxiated (0.1%)

Of these, the main causes of fatal injury continue to be workplace transport (including fork lift trucks), falls from height and machinery.

HSE Slips & Trips eLearning Package

The HSE have provided a free online eLearning resource called STEP, the aim of which is to provide guidance on slips and trips through interactive learning. The courses have been developed for certain industries, including the food manufacture industry.

Training is provided at 3 levels:

Introductory - 15- 20mins in duration, described by HSE as a "short, snappy course, providing key information in an easy to understand and interactive format"

Intermediate - 1 hour duration, described as "several short lessons in simple English on key topics including footwear, flooring and assessing slip and trip risks."

Advanced - Duration varies dependant on which topics user needs to complete. Described as containing "a number of detailed lessons, several of a technical nature e.g. classification of flooring, procurement of footwear, test methods. If fully completed users will develop an in depth knowledge of all topics or learn about specific topics."

STEP replaces previous HSE Guidance documents HSG 155 Slips and Trips: Guidance for employers on identifying hazards and controlling risks and HSG 156 Slips and trips: Guidance for the food processing industry.

For organisations without access to the internet, STEP is also available on DVD-ROM from the HSE at a cost of £5 plus VAT.

Stress Management

The HSE has received a great deal of feedback following the National Stress Awareness day on 4th November 2009. The date for this year's Awareness Day is Wednesday 3rd November 2010 and now is a good time to look at what our organisations can do to manage employee stress.

Legal Duties

Although there are currently no regulations dealing specifically with stress by name, there are implied duties to tackle stress as follows.

- The Health and Safety at Work, etc Act 1974 states that employers have a general duty to ensure, so far as is reasonably practicable, the health, safety and welfare of their employees at work. This includes taking steps to make sure they do not suffer stress-related illness as a result of their work.
- To meet their legal obligations under the Management of Health and Safety at Work Regulations 1999, employers must take account of the risk to their employees of stress-related ill health. Regulation 3 contains a duty to assess risk; regulation 4 and schedule 1 set out the duty to apply the principles of prevention; regulation 13 covers the duty to ensure employees' capability and to provide training; and regulation 19 contains specific duties relating to young people.
- The Management of Health and Safety at Work Regulations 1999 also contain a duty to assess the working conditions of new and expectant mothers, which includes assessing the risk of work-related stress.
- Legal requirements for consultation with employees and their representatives are also important in relation to managing the risk of work-related stress. The duty to consult with employees is covered by the Safety Representatives and Safety Committees Regulations 1977 and the Health and Safety (Consultation with Employees) Regulations 1996.

Tackling Stress

Organisations should take a proactive approach to reducing stress levels, e.g. having a policy on stress and effective procedures, providing appropriate training and offering treatment and rehabilitation should it be required.

Employers can gather information about stress in their organisation by qualitative methods (e.g. talking to staff, focus groups) and quantitative methods (e.g. sickness absence data, staff turnover, questionnaires).

The main guidance for tackling stress comes from the HSE's Stress Management Standards, launched in 2004. The standard identifies six main areas of risk:

- Demands, e.g. lone working, lack of training, fast pace of work, poor physical environment, exposure to violence and aggression.
- Control, e.g. lack of control over task design, non-participation in decision-making.
- Relationships, e.g. bullying, harassment, low levels of support.
- Change, e.g. new technology, changing market demands, restructuring.
- Role, e.g. role conflict, role ambiguity.
- Support, training and factors unique to the individual e.g. lack of adequate training, lack of support/feedback, lack of constructive advice.

In terms of risk assessment, stress must be treated like any other health hazard. The HSE has recommended following its Five Steps to Risk Assessment as follows.

- Step 1: identify the hazard, i.e. what could go wrong?
- Step 2: identify those at risk, i.e. who might be harmed and how?
- Step 3: evaluate the risk and identify control measures, i.e. what is the extent of the risk? Are existing controls adequate? What more needs to be done?
- Step 4: record your findings and inform others of your findings.

- Step 5: monitor and review effectiveness once the new system is implemented, i.e. is it working? Has anything changed? Is it still valid? Does anything more need to be done or should anything be done differently?

Managers have a key role to play in reducing stress. They should be involved in risk assessments and must act appropriately when stress is reported to them.

More guidance can be found at the HSE's stress microsite at www.hse.gov.uk/stress/index.htm.

'Keep it Safe' is now available to all BFFF members via the Health & Safety page of the 'Members Only' section of our website

<http://www.bfff.co.uk/members>

Login details have been provided to our main and Health & Safety contacts at each member company.

Back copies of 'Keep it Safe' are also available under the Health & Safety section of the website.

Enforcement Action

Director fined for repeated negligent safety practices after workers arm amputated

A businessman from Northamptonshire has been fined £60,000 after ordering a worker to clean a moving machine that trapped and mangled his arm, requiring it to be amputated.

Paul Richard Llewellyn James, 58, of Cranford Northamptonshire, pleaded guilty to two breaches of Regulation 11 (1) of the Provision of Use of Work Equipment Regulations 1998, brought under Section 37 of the Health and Safety At Work etc Act 1974. The charges, brought by the Health and Safety Executive (HSE) related to separate incidents where two employees were severely injured. Mr James was also ordered to pay £17,500 in court costs.

The court heard that Mr James was a Director of James Environmental Ltd when both incidents occurred at the company's premises. Mr James put the company into voluntary liquidation three days after the case was committed to Crown Court.

The first incident occurred when an employee was cleaning near an unguarded roller on a conveyor belt. He had been instructed by Mr James to put his hand in between the belts on the conveyor and scoop out the rubber debris that was sticking to the roller with the machine running.

When reaching into the conveyor to clean the roller, the employees' right arm was drawn in by the belt and was crushed as it was forced around the roller. His injuries were so severe his arm had to be amputated just below the shoulder.

The second incident occurred just over a year later when another employee reached into the conveyor belt to clear debris. He did this as he had seen Mr James and other employees' clear debris in this way. The guard was not properly fixed in place and as he reached in, he too had his arm pulled in by the belt and around the roller. Although this employee did not lose his arm, he is still undergoing operations on his arm.

Neil Craig, HSE Principal Inspector said: 'Paul James' blatant disregard for health and safety has had disastrous consequences for these two young men. You would think that after the first accident he would have made absolutely sure that it would not happen again. But 14 months later a second employee was injured in almost exactly the same way.'

'As managing Director, Paul James was instrumental in both of these incidents. For this reason HSE took the decision to prosecute him as an individual rather than proceed against his company.'

'The outcome of today's proceedings should serve as a stark reminder to company directors that they can be held personally liable and cannot hide behind their corporate entities.'

Mr James was fined £60,000 and ordered to pay costs of £17,500.

Food manufacturer ordered to pay almost £95000 after Norfolk workers hand crushed

A Warwick-based food manufacturing firm has been prosecuted by the Health and Safety Executive (HSE) after one of its employees had three fingers crushed in a packing machine.

On 27 November 2007, Ludmila Jurkevica, aged 27, from King's Lynn, was attempting to clear a blockage in a Multivac packing machine at the site in Norfolk, when the incident happened.

The investigation found the machine did not have the required guarding and the company had not provided sufficient training.

The company pleaded guilty to breaching s.2 (1) of the Health and Safety at Work, etc Act 1974 in failing to ensure, so far as reasonably practicable, the health, safety and welfare at work of the employees. The company admitted failing to prevent access to dangerous parts of the machinery and failing to make a sufficient risk assessment of the Multivac machine.

The company was fined £65,000 at Norwich Crown Court and ordered to pay costs of £29,523.

Commenting on the case, HSE Inspector Steven Gill said, "This was a nasty incident which could have been avoided had the company checked how safe the machinery was and taken precautions to protect staff. Machines like these can be incredibly dangerous and cause serious injury. No company should take these risks lightly."

Lack of a £10 padlock cost a man his life and a fine of £140,000 to the company

While trying to clear a silo in September 2006, Balwinder Singh Aulkh was trapped when his leg was caught in the underfloor screw conveyor — a piece of machinery used to take rice from the silo. He died from his injuries.

His employer had failed to ensure that dangerous parts of the machinery could not be accessed by members of staff, or that dangerous moving parts were stopped before anyone entered the danger zone.

Last week, Veetee Rice Ltd of Medway City Estate in Rochester, a rice manufacturing company, was fined £140,000 for health and safety breaches.

It had already pleaded guilty, at a previous hearing at Medway Magistrates' Court, to contravening regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998. The company was also ordered to pay costs of £20,500.

Mike Walters, Health and Safety Executive Principal Inspector in Kent, said: "If the company had fitted a simple padlock on the access hatch to the rice silo — which could have cost as little as £10 or £15 — then this tragic incident would not have happened."

The level of fine and costs awarded in this case should act as a stark warning to all employers to take their responsibility for health and safety seriously, Mr Walters added.

Worker compensated for fall

A worker who slipped and fell down a flight of stairs after warning his employers how dangerous they were has received more than £9000 in compensation, according to law firm Thompsons Solicitors.

In February 2006, the man, a member of the GMB union, was approaching the stairs down to his office when he slipped on the top step, which had become smooth from wear and tear. He fell to the bottom, damaging his right shoulder and exacerbating a previous shoulder condition.

He needed surgery on his shoulder following the fall, was forced to take 13 weeks off work as a result of the accident and now suffers pain when using his arm for extended periods.

A source at Thompsons Solicitors says the man had warned his employers about the dangers of the step on a number of occasions, but the problem was never addressed.

Following the accident, he contacted his union, the GMB, which instructed its lawyers Thompsons to pursue a claim for accident compensation. The claim was settled out of court.

Nick Hughes from the GMB said, "Slips and trips are one of the most common causes of workplace accidents. While this fall may seem innocuous, it forced this member to take time off work and lose wages. His employers should have made sure the stairwell was fixed as soon as the problem was highlighted."

Ian Bridgman from Thompsons Solicitors added, "It is unacceptable that our client had complained about this problem prior to his accident but nothing was done to fix it. A simple non-slip tread would have prevented his injury and the time he had to take off work. Employers must ensure that floor surfaces, including stairwells, are in a good state of repair."