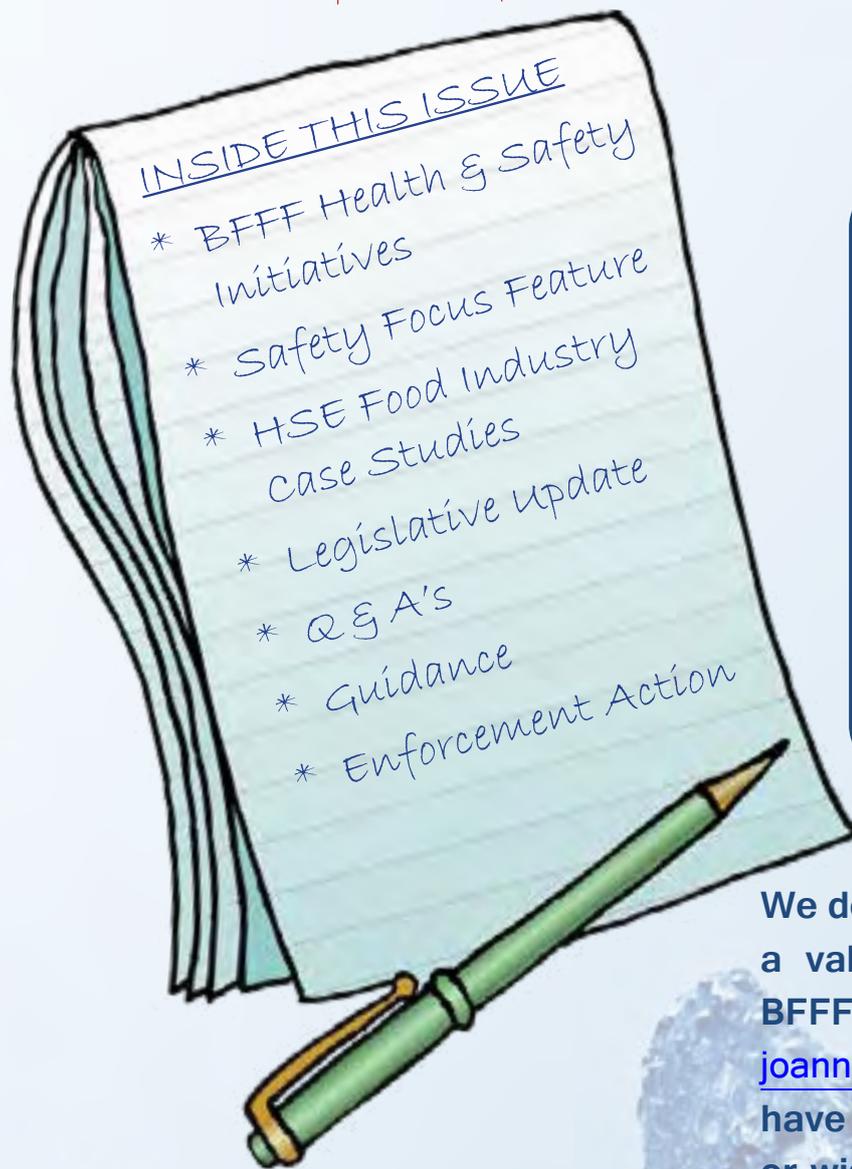


# KEEP IT SAFE

BFFF QUARTERLY HEALTH AND SAFETY UPDATE

APRIL 2013

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



We do hope you find 'Keep It Safe' a valuable read. Please contact BFFF on 01400 283096 or email [joannahancock@bfff.co.uk](mailto:joannahancock@bfff.co.uk) if you have any health and safety issues or wish to receive additional/back copies



## CONTENTS

### **1. BFFF Health and Safety Initiatives**

- BFFF Health and Safety Seminar 2013
- BFFF Health and Safety Working Group
- BFFF Primary Authority Agreement
- What to Expect from HSE in 2013
- Keeping Engineers Safe Whilst Working on Refrigerated Vehicles / Trailers at Height
- BFFF Member Health & Safety Statistics

### **2. Safety Focus Feature**

- Ammonia Systems Self Assessment Checklist for DSEAR (The Dangerous Substances and Explosive Atmospheres Regulations (DSEAR/ATEX) 2002)

### **3. HSE Food Industry Case Studies**

- Fatal Accident Involving a Depalletiser
- Fall from Fork Lift Truck

### **4. Legislative Update**

- HSE Fee Charging Scheme Gets Into Swing
- Proposal to Amend the First Aid Regulations
- Consultations on Council Safety Inspections
- IOSH Urges Government Rethink

### **5. Q&As**

- Definition of “Necessary” Fire Equipment
- Selecting Staff for First Aid Training

### **6. Guidance**

- Second Hand Fork Lift Trucks
- Occupational Driving and Eyesight Tests
- Selecting Head Protection for Coldstore Work
- Defibrillator Survey Raises Workplace Concerns
- Union Speaks Out Against E-Cigarettes

### **7. Enforcement Action**

- Gross Negligence Manslaughter Charge for Director
- Company Fined After Norfolk Engineer Fractured Skull in Fall

# BFFF HEALTH AND SAFETY INITIATIVES

## HEALTH AND SAFETY SEMINAR 2013



Building on the successes of our last three seminars we are delighted to announce that this year's health and safety seminar will take place on the 3<sup>rd</sup> July 2013 at the Ricoh arena in Coventry. We have selected a number of expert speakers to provide guidance for the membership themed around 'Safety and Health within the Cold Chain'.

This year's event will have a greater focus on support for health issues to guide members in this area. The topics for the day include:

- HSE priorities and target areas for 2013/14
- BFFF Primary Authority Scheme and industry statistics

- Dealing with the aftermath of a serious accident
- The pros and cons of implementing drug and alcohol policies
- Expert speaker on the effects of the cold environment on the body relevant to workers in our industry
- IOR Guidance on DSEAR for Ammonia refrigeration systems
- Keeping Engineers safe whilst working on refrigerated vehicles/trailers at height

Please contact Joanna Hancock to register your interest for this event on e mail [joannahancock@bfff.co.uk](mailto:joannahancock@bfff.co.uk)

## BFFF HEALTH AND SAFETY WORKING GROUP

We are delighted to welcome Ardo UK Ltd, Chalcroft Construction and Cold Move Ltd as new members to the BFFF working group this year. Our working group continues to be very proactive on behalf of the membership and provides members with an opportunity to confidentially raise health and safety issues for discussions with the forum.

Queries raised over the past few months include recommended

cold store doors to reduce ice build up, locating non standard pallets at height, working on cold store ceilings and the carrying of chemicals. All of which have been responded to by the group. So please feel free to contact Joanna Hancock with any health and safety queries you would like to put forward.

The group's last meeting was in January when discussions took place on the seminar for this year and the new guidance

for refrigeration engineers (further details is included in this newsletter). The meeting was rounded off with a presentation from the Lincolnshire Fire and Rescue on the considerations for evacuation plans for operators with Ammonia refrigeration plants. We are now building our contact with the Fire and Rescue service so if you would like any more detailed information on the groups' discussions then please feel free to contact Joanna Hancock.



# BRDO

## Better Regulation Delivery Office

### BFFF PRIMARY AUTHORITY AGREEMENT

As we have reported previously, BFFF is exploring the opportunities available for us to enter into one of the first primary authority agreements for a Trade Association. The change in legislation to make this possible is 99.9% through the parliamentary process and is expected to receive royal assent in April, with legal stature from October 2013.

We believe that a primary authority agreement for the BFFF membership will bring substantial benefits to the members. This new scheme for Trade Associations means that companies enforced by the local authority with a shared approach to compliance (trade association members) can take part in a trade association primary authority regardless of the size of the business. Previously primary authorities were only available to companies with multiple depots across different local authorities.

The main advantage for members signed up to the BFFF agreement is the legal protection offered by the assured advice provided by the primary authority. Basically the primary authority will be reviewing the BFFF guidance i.e. Work at height guidance in coldstores and the result will be an agreed assured guidance for the industry. BFFF members

signed up to the BFFF Primary authority that follow this assured guidance will have legal protection on enforcement in this area. As such the burden of inspections from Enforcing authorities should be reduced.

BFFF members enforced by LA will be able to sign up directly to the scheme i.e. wholesalers and logistics providers. Other BFFF members will also be able to take advantage of being able to follow 'assured' guidance effectively officially approved by the local authority.

The HSE are fully on board with the principle of Primary Authorities and as many BFFF members are enforced by HSE, we will also be continuing our partnership with HSE. Our strategy will continue to include both HSE and the Local Authority approving any industry guidance produced by the BFFF.

Over the forthcoming months we will be reviewing all the implications of the BFFF entering into this scheme. Part of this

review will involve researching our members in order for us to understand your current level of engagement with local authorities and your current main areas of concern for health and safety.

We have commissioned **Beaufort Research** to undertake the research for us and they will be contacting a number of our members during April and May. We would encourage all members to be as open as possible and to be reassured that all responses will remain confidential within the BFFF offices. So if you have any current areas of concern for health and safety please feel free to provide the details. The results of the research will help to scope our future health and safety activities so we look forward to the results.

We will be making a final decision on the way forward with our primary authority agreement in June. We will keep you updated on this subject and please contact Joanna Hancock for any further information.

**beaufortresearch**

## WHAT TO EXPECT FROM HSE IN 2013

BFFF is now a member of the HSE Food and Drink Forum. This is a proactive group chaired by HSE including representatives from the main trade associations in the food industry and the Union representatives. The purpose of the forum is to provide industry with an update on HSE activities and we are very pleased to be part of this forum gathering direct information for the members.

HSE's emphasis on reform and red tape continues this year with HSE's target for delivery in April 2013 including:

- Work at height guidance review
- National Local Authority Enforcement Code review
- 2<sup>nd</sup> phase of revocation of certain ACOPS
- Health and Safety prosecutions to be within 3 years of the incident particularly for fatalities. HSE report that this is a complex area as other enforcing authorities are involved, however this is their aim.

For delivery between October and December 2013 their work streams include:

- First Aid, RIDDOR and Strict Liability regulation revisions by October 2013
- Further ACOP revisions by November 2013

In relation to the ACOP revisions HSE will be consulting on the text of the revised ACOPs from May 2013 and to publish the revised versions at the end of 2013 and

throughout 2014. So we will keep you updated on the various relevant consultations as they arise.

### HSE Legionella Intervention programme



One of the biggest campaigns for HSE this year is the Legionella intervention programme with their aim of promoting sustainable compliance. As we reported in the last Keep it Safe the issue of Legionella Management continues to be a concern. One of their high priority and concern areas are Evaporative Cooling systems and they have classed these systems with a high risk rating.

Their campaign will target the high risk areas and all businesses with Cooling towers and evaporative condensers will be inspected for compliance by the Enforcing Authorities. This campaign is a joint approach from HSE and the Local Authorities. In addition to compliance checks, it includes stakeholder engagement, education and advice and the promotion of good practice across those sectors whose work or premises may have significant associated legionella risks.

The first of these premises to be

inspected will be those in high risk areas i.e. premises in highly populated areas. The inspection campaign is likely to take place during May and June this year and the inspections will take several hours.

Inspections will focus on main elements of legionella management including:

- Risk assessment
- Systems for controlling legionella risks
- Management arrangements including training and competence of staff
- Management of contractors
- Monitoring and review of effectiveness
- Roles and responsibilities.

One of the common failings already identified by Enforcers is businesses **lack of management of their Water Management companies**. Enforcers state that they often find the Water Management company and the business working in blissful ignorance of each other with the business often not managing the relevant reports. HSE urges all business with cooling towers and evaporative condensers to take the time to understand their water management system, to manage the outcomes and monitor reports.

Exposure to Legionella causes serious health effects and BFFF would urge all members to review their management systems in this area.

## KEEPING ENGINEERS SAFE WHILST WORKING ON REFRIGERATED VEHICLES/ TRAILERS AT HEIGHT

As we reported within the last edition of Keep it Safe this is one of the new key areas of guidance for our members in 2013.

On the 22<sup>nd</sup> January, BFFF facilitated a meeting between 30 delegates representing stakeholders from across the industry to agree a framework for proposed guidance in this area. We had a very productive meeting comprising break out groups and full group

discussions. The stakeholders agreed that guidance is needed for the industry and agreed to participate in pulling together the necessary information.

Following this meeting BFFF has drafted outline guidance in this area. This guidance is being reviewed by a panel of BFFF members in April and then will be consulted on with the industry stakeholders in June.

Following the stakeholder meeting in June, BFFF will be consulting with the wider BFFF members and enforcers on the draft guidance. If any BFFF members would like to take part in this review then please feel free to contact Joanna Hancock on e mail [joannahancock@bff.co.uk](mailto:joannahancock@bff.co.uk).



## BFFF MEMBER HEALTH AND SAFETY STATISTICS

Thank you to all the members that have kindly confidentially shared their health and safety statistics for 2012. We are now in the final process of collating the data and would encourage all members that have not already participated to share their data with us. This is the last

opportunity to take part in the 2012 comparisons and we shall look forward to providing the resulting industry figures.

Each member contributing their health and safety statistics has an opportunity for BFFF to provide a detailed comparison for their company. Feedback from

members has shown that they have found the comparisons a very valuable health and safety management tool within their businesses.

So please contact Emma Cranidge for more details on e mail [emmacranidge@bff.co.uk](mailto:emmacranidge@bff.co.uk).

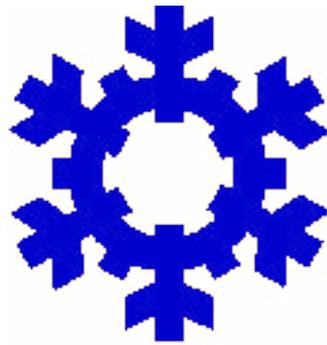
## SAFETY FOCUS FEATURE

### AMMONIA SYSTEMS SELF ASSESSMENT CHECKLIST FOR DSEAR (THE DANGEROUS SUBSTANCES AND EXPLOSIVE ATMOSPHERES REGULATIONS (DSEAR/ ATEX) 2002)

We would like to bring this new guidance to the attention of all members with ammonia charged refrigeration systems. It has been prepared by the FSDF and the IOR and is intended to give owners of ammonia charged systems a quick indication of whether their system is likely to be technically compliant with the Dangerous Substances and Explosive Atmosphere Regulations (2002). It does not address issues related to or hazards arising from the toxicity of ammonia. These are not covered by DSEAR (2002), but they do need to be considered to ensure compliance with the regulations listed within this guidance.

The self-assessment is not a substitute for the formal risk assessment required by DSEAR (2002) nor is it a substitute for the annual inspection required under the Pressure Systems Safety Regulations (2000).

If ALL the ammonia is in the machinery room and the room



**IOR**  
ior.org.uk

meets the requirements of EN378:2008 or later then it is more likely to be a simple task to show that it complies with the requirements of DSEAR (2002).

Likewise if there are **NO** flanges, valves or equipment in enclosed spaces such as a roof void or the cold space it is also more likely to be compliant. However if there are non-permanent joints outside the machinery room then additional steps may be required to meet the requirements of DSEAR (2002).

Please click here to view the

guidance <http://www.ior.org.uk/ammonia-systems-self-assessment-checklist-for-dsea>

More detailed information on these requirements will be included with the BFFF Health and Safety seminar. This seminar is being held at the Ricoh arena in Coventry on the 3<sup>rd</sup> July where Dr Andy Pearson of Star Refrigeration will be presenting to members on this topic. Please contact Joanna Hancock on [joannahancock@bfff.co.uk](mailto:joannahancock@bfff.co.uk) or 01400 283096 for more details on the seminar.

Please click here to view the



# HSE FOOD INDUSTRY CASE STUDIES

## FATAL ACCIDENT INVOLVING A DEPALLETER

This case study outlines the prosecution of a confectionery company after an employee suffered fatal injuries when a depalletiser machine was restarted while he was still inside it.

### Summary

The employee had been working on a machine that processed pallets of sweet tins. During his shift, he went on a break. Cover was provided by a colleague who was expected to carry on with his normal duties of keeping production running smoothly, though he was not always in the direct vicinity and view of the machine.

While providing break cover, the other employee responded to an alarm on the machine. He checked the error message on the control panel but could visually see the problem was caused by a broken pallet and that tins of product had fallen and blocked the machine. He cleared the blockage and then went about his other duties.

He did not see the other employee return from his break. Shortly after, the alarm sounded again and he again went to check the message on the control panel. He could see no-one inside the machine or any blockage, so restarted the machine at which point it jerked immediately stopped and the alarm sounded once again.

He then entered the machine without removing the key from the control panel and went back around to the area which had

previously jammed. He saw a high vis jacket and realised that his colleague had been inside when he restarted it. Other staff tried to administer first-aid but he was pronounced dead at the scene.

The investigation found that the company had not carried out an adequate risk assessment. The investigation also discovered that a safety key device to halt the machine was available but the company had failed to ensure its employees were aware of its purpose and how to use it correctly.

The company's safety breaches were compounded by the fact that the company had previously received written advice about improving guarding on a palletiser, but had not applied that advice to the machine on which the employee was killed.

### Action

The company pleaded guilty to breaching Sections 2(1) of the Health and Safety at Work etc Act 1974 in that they failed to ensure the Health, Safety and Welfare of their employees, as the depalletiser was not in a safe condition to use and they failed to provide comprehensible and relevant instruction, training and supervision. They were fined £180,000 and ordered to pay £41,826.33 in costs.

### Advice

The prosecuting inspector said: "This was a terrible tragedy that could have been so easily

avoided. The company failed to ensure robust systems were in place to control safe entry into the depalletiser and prevent the machine being re-started whilst someone was in the danger zone.

"A family has been left without a father and a provider due to inexcusable negligence by the company. Companies should be aware HSE will not hesitate to take appropriate enforcement action against those that fall so far below the required standards."

Further information on how to ensure that risks to workers' health and safety from the use of work equipment and machinery are properly controlled can be found on the HSE website at [www.hse.gov.uk](http://www.hse.gov.uk).



## HSE CASE STUDY- FALL FROM FORK LIFT TRUCK

This case study outlines the prosecution of a distribution company after an employee suffered severe injuries when a metal cage he was using fell from the forks of a raised fork lift truck.

### Summary

The 18 year old trainee electrician was one of two trainees instructed to change a number of light bulbs on the warehouse ceiling at the distribution company's premises.

The distribution company provided a forklift truck for which neither trainee had received any training, though the firm's own instructions stated only trained drivers should use forklifts. They also provided a cage that was strapped to the forklift that was unsuitable for the task.

While his colleague drove the fork lift around the warehouse, the other trainee was positioned inside the cage, changing bulbs in any roof lights not working. During one of these manoeuvres, the forklift toppled over onto its side, narrowly missing crashing into a pillar and slamming the cage into the floor.

Inside the cage, the young trainee fractured his pelvis, suffered facial injuries, a broken front tooth and lacerations to his elbow.

### Action

The company pleaded guilty to a breach of Section 3 (1) of the Health and Safety at Work Act 1974 for failing to ensure the health and safety of those not in their employment. They were fined, in Crown Court, a total of

£20,000 and ordered to pay costs of £11,300.

The trainee electricians' employers were also prosecuted under Section 2 (1) of the Health and Safety at Work Act 1974 for failing to ensure the health and safety of those in their employment. They were fined a total of £7,000 with £5,000 costs.

### Advice

The HSE inspector said: "Changing light bulbs is such a common job the safety implications can be overlooked, but in high roofed workplaces, falls from height are a very real and serious risk.

"This job was not properly risk assessed and as a result both

companies chose the wrong equipment for the job and came up with a loose system of work. The two young trainees, inexperienced in work at height and not trained to use a forklift, were then left to get on with it.

"Any work at height needs to be properly planned, the right equipment chosen and workers given sufficient training to do the job correctly and properly supervised."

BFFF has produced guidance on selecting the appropriate equipment for work at height activities within cold stores.

[Click here to access the guidance.](#)

### GUIDANCE ON THE SELECTION OF APPROPRIATE WORK EQUIPMENT FOR WORK AT HEIGHT ACTIVITIES WITHIN A COLD STORE ENVIRONMENT

This guidance is issued by the BFFF and FSDF after full consultation with HSE. The following is not compulsory and you are free to take other action. Notwithstanding that, the BFFF and FSDF have fully consulted with the HSE in developing this supplementary guidance to PM28, they cannot guarantee that the guidance will ensure compliance with the law. However, on the basis of the equipment readily available, the BFFF and FSDF believe that by following this supplementary guidance cold storage operators are taking adequate steps to ensure that the risks faced are reduced as low as reasonably practicable.

This guidance refers to the selection of appropriate work equipment for work at height activities within a cold store environment **only**. For the purposes of this guidance a cold store is defined as a warehouse storing goods at temperatures below zero degrees Celsius however, it should be noted that battery performance worsens as temperature falls so it may be practicable to provide better solutions in warmer environments.



British Frozen Food Federation  
www.bfff.co.uk



Food Storage & Distribution Federation  
www.fsdf.org.uk

First Edition: December 2009  
To be reviewed by no later than December 2013

## LEGISLATIVE UPDATE

### HSE FEE CHARGING SCHEME GETS INTO SWING

The new cost recovery scheme, introduced by the Health and Safety Executive (HSE) last year, is getting into full swing, with Fee for Intervention (FFI) invoices sent out in January 2013 totalling a sum of more than £727,000.

The FFI scheme came into force in October 2012 with the Health and Safety (Fees) Regulations 2012, but is clearly now starting to be used by the watchdog on a nationwide scale.

Under the regulations, those who break health and safety laws are liable for recovery of HSE's related costs, including inspection, investigation and taking enforcement action.

The FFI hourly rate for 2012/13 is £124.

According to the latest report



of Geoffrey Podger, the Chief Executive of the HSE, to the body's Board on 30 January 2013, the first fee for intervention bills went out in the week commencing 21 January 2013.

The report indicated that the total sum invoiced for the two months from October to November 2012 was £727,644.81, which arose from 1418 FFI invoices.

A "broad breakdown" of the invoices was said to be as follows:

- 10% of invoices were for values greater than £1000
- 70% of the invoices were for less than £500
- 30% were for less than £200.

In his report to the Board, Geoffrey Podger also confirmed that the independent members of the disputes panel for the scheme will be selected in February 2013 and then invited to agree their terms and conditions so that the first panel can be in place by the end of March if needed.

HSE will be performing an internal review of FFI in May this year and the scheme will be formally reviewed after 2 years.

### PROPOSAL TO AMEND THE FIRST AID REGULATIONS

In the last edition of Keep it safe we outlined the details of the HSE's consultation on First Aid Training changes. The changes were due to take place in April however 'due to the cross-cutting nature of the proposed changes to the Health and Safety (First Aid) Regulations 1981 the HSE board have requested further time to consider proposals to the consultation'. In light of this, the proposed changes are now expected to come into force on 1<sup>st</sup> October 2013, subject to parliamentary agreement.

With immediate effect HSE is no longer accepting applications from organisations seeking HSE approval to award qualifications in FAW or EFAW. Also regardless of the date of expiry that appears on a current certificate, HSE approval of first aid training providers will now end at midnight on 30<sup>th</sup> September 2013, when HSE will either put new arrangements for

the scheme in place or legislative change will take effect.

We will keep you updated on any developments.



## CONSULTATION ON COUNCIL SAFETY INSPECTIONS

In December the HSE launched a consultation on plans to improve the targeting of council health and safety inspections.

At the centre of the consultation document was a draft National Local Authority Enforcement Code that aims to ensure that council health and safety inspections are targeted at workplaces or activities with “the most serious risks” or “where there is evidence of poor performance”. This, the HSE says, is to ensure greater consistency and “a tighter focus” in the enforcement of health and safety

across Britain.

The Code has been developed in response to Professor Ragnar Löfstedt’s review of health and safety legislation, which was published in November 2011.

The review recommended that the HSE be given a stronger role in directing local authorities’ health and safety inspection and enforcement activity.

HSE asked for the views of all those involved in local authority health and safety regulation and the businesses they regulate. The consultation closed on 1<sup>st</sup> March.

Commenting on the consultation, Elaine Harbour, Head of the Local Authority Unit at the HSE, said, “Local authorities have an important part to play in ensuring the effective and proportionate management of risks by businesses. The Code sets out how their interventions should be targeted on higher risk activities, businesses and sectors.

## IOSH URGES GOVERNMENT RETHINK



However, the Institution of Occupational Safety and Health (IOSH) claims that some of the

a number of the proposals – quite the opposite – they offer no real benefit and introduce unnecessary human and financial risks.”

A leading health and safety body has urged the Government to rethink the implementation of its proposals following the Löfstedt review of UK health and safety legislation.

Professor Ragnar Löfstedt’s review of health and safety legislation was published in November 2011, and a follow-up appraisal will be delivered by Professor Löfstedt to the Employment Minister at the end of January 2013.

This second report will assess the Government’s handling of the first review, released in November 2011, which declared health and safety laws broadly “fit for purpose”.

recommendations of the first review are “conceptually flawed” and the overall approach has been “too hasty, often portraying health and safety in a negative and unhelpful light”.

The health and safety body has set out these views in its submission to Professor Ragnar Löfstedt, to inform his second review.

The Head of Policy and Public Affairs at IOSH, Richard Jones, said, “We’d like to see the Government reconsider the way it is implementing the Löfstedt review, as it is going much further than was recommended, or intended. We don’t believe the case has been properly made for

He added, “At times this year, we’ve seen our world-respected health and safety system being negatively portrayed. Some Löfstedt-related changes have been incorrectly announced as major and necessary reforms to relieve burdens on business. This negative message is damaging and could result in confusion and poor decision-making in our workplaces, putting lives at risk.”

## Q & A'S

Public sector cost cutting and cutbacks to HSE resources have resulted in less HSE campaigns therefore to give our members better value from this newsletter BFFF have decided to replace the HSE Campaigns section with this new Q&A feature. Information relating to H&S campaigns will still appear in the Guidance section.

In this feature we answer your Health and Safety questions, big or small. If you have a question please contact Joanna Hancock. Questions will be answered anonymously.

### DEFINITION OF "NECESSARY" FIRE EQUIPMENT

Q. I have been asked to review our fire safety management regime, including the provision of fire-fighting and fire detection equipment. I have noticed that fire legislation requires this to be provided "where necessary". Does "where necessary" have any legal definition?

A. Fire safety legislation, such as the Regulatory Reform (Fire Safety) Order 2005, requires that, where necessary (whether due to the features of the premises, the activity carried on there, any hazard present or any other relevant circumstances), in order to safeguard the safety of relevant persons, the responsible person must ensure that the premises are equipped with appropriate fire-fighting equipment and with fire detectors and alarms.

The Regulatory Reform (Fire Safety) Order 2005 (or its equivalent) does not actually define "where necessary". However, the Department of Communities and Local Government does provide some useful information on its website.

Fire safety legislation implements the requirements of the European Workplace Directive (89/654/EEC), which in the preliminary note (paragraph 1) to the Annex states that "the obligations laid down in this Annex apply whenever required by the features of the workplace, the activity, the circumstances or a hazard".

This requirement is implemented in the Order by use of the term "where necessary", which adds "and that expression should be construed accordingly".

The guidance continues by stating that "this means that the fire precautions provided (and maintained) by the responsible person are those needed to reasonably protect relevant persons from risks to them in case of fire".

What is reasonable will be determined by the findings of a fire risk assessment, including the preventative measures that have been or will be taken. The fire risk assessment aims to:

- Identify the fire hazards
- Reduce the

risk of those hazards causing harm to as low as reasonably practicable

- Decide what physical fire precautions and management arrangements are necessary to ensure the safety of people in premises if a fire does start.

The level of fire protection should be proportional to the risk posed to the safety of the people in the premises. Therefore, the objective should be to reduce the remaining risk to a level as low as reasonably practicable. The higher the risk of fire and risk to life, the higher the standards of fire protection will need to be.

Clearly, only the courts can provide definitive interpretations but fire authorities are responsible for enforcing legislation and it is worth noting that in practice it is very unlikely that a properly conducted fire risk assessment will conclude that no fire precautions are necessary.



## SELECTING STAFF FOR FIRST AID TRAINING

Q. I have been asked to produce guidance for line managers and heads of service on the criteria to be used when selecting staff members who wish to be trained in first aid. Are there any specific criteria that need to be met?

A. Training staff for first aid purposes involves more than merely sending personnel on a recognised course by an approved provider. It is important that due thought and consideration are given by both employer and employee(s) as to what the role and responsibilities will be, based on the risk assessment and the requirements of the organisation.

Clearly, being a first-aider entails making a commitment to providing an important and potentially life-saving response. To do so, the individual should be able to:

- Assess a situation quickly and safely and summon appropriate help
- Identify, as far as possible, the injury or the nature of the illness affecting a casualty
- Give early, appropriate, and adequate treatment in a sensible order of priority
- Arrange for the removal of the casualty to hospital, to the care of a doctor
- Remain with the casualty

until handing them over to the care of an appropriate person.



the location of any would-be first-aid staff on the premises and their times of attendance on the premises. It should also be borne

in mind that first-aid personnel may have to carry out other duties, including the preparation of a report on any incident and any treatment administered, and assisting in any subsequent investigation.

They may also have to regularly check first-aid equipment to ensure that the contents of boxes and facilities in first-aid rooms comply

To achieve this, a number of factors must be considered. According to L74 First Aid at Work. The Health and Safety (First-Aid) Regulations 1981. Approved Code of Practice and Guidance, these will include the individual's:

- Reliability, disposition and communication skills
- Aptitude and ability to absorb new knowledge and learn new skills
- Ability to cope with stressful and physically demanding emergency procedures
- Normal duties, which they should be able to leave immediately and rapidly to attend an emergency.

with the requirements of the regulations. Such responsibilities will require a time commitment and a person selected for training and given these additional responsibilities must have the approval of their line manager to ensure that there is no conflict of interests.

Other factors to consider include

# GUIDANCE

## SECOND HAND FORK LIFT TRUCKS



While there is no specific legislation solely for the purposes of fork lift truck (FLT) safety, there are a number of aspects of current legislation that have direct effect on the purchase and use of fork lift trucks at work, applying to both new and second hand equipment.

In general, the Health and Safety at Work, etc Act 1974 (HSWA) sets the duty of the employer to provide safe plant and equipment. Furthermore the Management of Health and Safety at Work Regulations 1999 (MHSWR) set requirements to assess the hazards and risks that the worker may be exposed to.

The main requirement of the Provision and Use of Work Equipment Regulations 1998 (PUWER) is that all work equipment is suitable for the purpose intended and that it is adequately maintained and inspected.

The following PUWER regulations are directly relevant to FLT:

- Regulation 4, giving a requirement to ensure the suitability of the FLT for the purpose for which it is intended to be used.

- Regulation 5, requiring that the FLT is kept adequately maintained to prevent risks to health and safety.
- Regulation 26, regarding the duty to provide certain types of FLT with the means to prevent it rolling over and causing injury to the driver.
- Regulation 27, regarding the provision of means to reduce the risk of those FLTs not covered in regulation 26 from overturning.
- Regulation 28, covering the general requirements to prevent self-propelled work equipment, such as an FLT, from causing a risk to the safety of people while it is in motion.

A FLT is work equipment for lifting and lowering of loads and consequently needs to comply with the requirements set out in the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER). Although all the regulations are relevant to the use of FLTs, the most significant are the following:

- The need to ensure that the fork lift truck is adequately strong and sufficiently stable to lift (and, by implication, carry) the load.
- The need to ensure the safety of the equipment used to lift people, ensuring that a proprietary cage which was designed and made for the purpose is used.
- The requirement for a thorough examination at intervals of:
  - not more than 12 months for equipment that lifts a load
  - not more than six months for equipment used to lift people, or if it is a lifting accessory, eg the chains, the forks and the mast.

When looking to purchase a second hand FLT these requirements must be met either by the supplier or the business purchasing the truck. Most suppliers will have already performed a number of checks including the thorough examinations but it is sensible to confirm with them that this is the case.

When purchasing, a competent person should do their own inspection to ensure that there is no visible damage and that relevant paperwork is in order.

## OCCUPATIONAL DRIVING AND EYESIGHT TESTS

With company car drivers having 50% more road traffic accidents (RTAs) than those driving for domestic purposes<sup>1</sup>, driving is one of the most dangerous things we can do at work. It is therefore worrying that road safety charity Brake estimates that at least one in six UK drivers would fail an eyesight test.

Where a business employs people to drive as part of their work, whether company vehicle or their own used for business purposes (but not the daily commute) the employer has a clear 'Duty of Care' to ensure that employees are safe to drive and that they meet the strict requirements of the Highway Code, relevant road traffic laws and the general requirements of the Health and Safety Act 1974. Part of this is seeking to ensure that drivers are medically fit to drive.

The Health and Safety Executive's (HSE's) guidance document INDG 382 - Driving at Work is clear that it is the employer's responsibility to ensure, as far as is practical, the health and safety of all employees while driving for work. They must also ensure that there is no risk to the public from the company's work-related activities.

HSE suggests that proper occupational driving risk assessments should include reminding all occupational drivers that they must be able to satisfy

requirements relating to eyesight as set out in the Highway Code, although it should be noted that the employer is not legally obliged to pay for eyesight tests for drivers.

In order to meet the requirements of the Highway Code occupational drivers should regularly undergo



a full eye examination carried out by a qualified optometrist. If the optician states that eyesight correction is necessary for safe driving then it is vital that the prescribed eyewear is always worn when the employee is driving in line with their working responsibilities.

The DVLA recently considered amending the minimum medical standards for eyesight and epilepsy in relation to driving<sup>2</sup>. The consultation concluded that there

will be no additional requirement for routine eyesight checks and no requirement for a professional opinion when applying for a licence other than that already in place i.e. the existing number plate test.

However recent changes in DVLA policy mean that anyone failing the standard Police roadside check of reading a car number plate from 20 metres away can have their licence revoked by the DVLA within a matter of hours until such time as they can demonstrate that their eyesight meets the required standard. Previously the Police had to fax the details to the DVLA, often resulting in waits of up to four days before the revocation came into effect. The new system allows this to happen within a matter of hours.

Nevertheless it is important that when developing and implementing occupational road risk policies and risk assessments employers include a requirement for workers to undergo regular eyesight tests; both as a proactive measure to help prevent RTAs and to provide defence if the business's handling of occupational drivers is called into question following an RTA.

<sup>1</sup> According to research carried out by the Transport Research Laboratory [www.trl.co.uk/about\\_trl](http://www.trl.co.uk/about_trl)

<sup>2</sup> [www.dft.gov.uk/dvla/pressoffice/pressreleases/30052012.aspx](http://www.dft.gov.uk/dvla/pressoffice/pressreleases/30052012.aspx)



## SELECTING HEAD PROTECTION FOR COLDSTORE WORK

Head protection must be chosen for its suitability and for the level of protection required. It must also fit correctly. Safety headwear must fit the wearer well and should:

- be an appropriate shell size for the wearer
- have an easily adjustable headband, nape and chin straps (if relevant).

The range of size adjustment should allow for the use of thermal liners in cold environments. Helmets should also be as comfortable as possible; this can be improved by including:

- a flexible headband that is wide enough and contoured both vertically and horizontally to fit the forehead
- an absorbent sweatband, that can be easily cleaned or replaced
- textile (rather than plastic) cradle straps.

Where chin straps are used they should:

- not cross the ears
- be compatible with any other items of PPE that may be worn
- be fitted with smooth, quick release buckles or fittings that do not dig into the skin
- be made from non-irritant materials
- be able to be stowed on the

helmet or easily removed if not required.

Any head protection purchased should be CE marked to indicate that it complies with European Standards.

### Is the Head Protection Compatible with the Work to be Done?

Whenever possible, head protection should not hinder the work being done. Bulky helmets can be a problem for people working in small spaces, eg when maintaining plant and equipment.



It is important to involve the people who will be using the head protection when checking that it is compatible. Problems may only be apparent when the PPE is in use in the workplace.

Head protection may need to be worn at the same time as hearing protection and eye or face protection. If other PPE is to be worn with a helmet, such as goggles or ear muffs, the design must allow them to be worn comfortably and safely, and the performance of one item must not be affected by the use of any other.

Compatibility problems can be overcome by selecting PPE that combines more than one type of protection, eg safety helmets that have ear muffs or a face shield attached.

### Maintenance

It is necessary to establish a system for properly maintaining PPE, so that it continues to provide effective protection. The maintenance programme will depend on the equipment and how it is used, but it should include:

- cleaning
- disinfection
- examination
- replacement
- repair
- testing.

Before PPE is used, it should be examined to ensure it is in good working order. This includes when it is first issued and before it is put in to use. Staff should be trained to examine PPE, carry out simple maintenance and report any losses or defects to a supervisor or manager immediately.

When a safety helmet is damaged it should normally be replaced as its integrity may be compromised and may not offer a sufficient level of protection should it be needed.



There is some concern over marking safety helmets with marker pens and aerosol paints. The best advice is to avoid this type of marking altogether; aerosol paints in particular can contain solvents which may compromise the integrity of the helmet. If in doubt consult manufacturer's recommendations of both helmet and marker/aerosol.

### Beware Counterfeit PPE

There is an increasing problem with counterfeit PPE. Last year the British Safety Industry Federation (BSIF) issued a safety flash highlighting extremely fragile helmets being sold under the names "burly" or "MkII". These helmets could be easily broken by light hand pressure.

To help combat the spread of fake protective equipment, BSIF have issued a free PPE checklist available at <http://www.bsif.co.uk/app/images/documents/PPE%20Checklist.pdf>.

## DEFIBRILLATOR SURVEY RAISES WORKPLACE CONCERNS

A recent survey has indicated that more than half of British businesses do not have a defibrillator, despite the impact the device has on cardiac arrest survival rates.

The Institution of Occupational Safety and Health (IOSH) commissioned a survey of 1000 business decision-makers across the UK and found that 513 did not have the lifesaving equipment at work.

Almost two-thirds of those who did not have the equipment were medium to very large companies.

In support of National Heart Month this February, IOSH is encouraging companies to consider whether they should install a defibrillator, which restarts the heart using an electric shock. Defibrillator devices are said to cost around £1000.

Jane White, the Research and Information Services Manager at the safety body, said, "We want businesses to take a good look at the number of employees they have, their demographics and the kind of sector they work in, to assess whether they should get a defibrillator on-site."

Currently, 30,000 people in the UK each year have a cardiac arrest out of hospital and NHS data shows just 18.5% of them survive. American statistics also show 13% of workplace fatalities result from cardiac arrest.

Ms White added, "Using a defibrillator within the first few minutes after collapse gives the best chance of saving a life — it can increase survival rates by as much as 75%. This just proves to

businesses how important it is to have the equipment on-site."

Clive James, from St John Ambulance, said, "Prompt first aid and use of a defibrillator can be the difference between a life lost and life saved. Defibrillators detect if a casualty's heart rhythm needs shocking, so they can't shock anyone that doesn't need it. But ultimately a training course will give help to give you the confidence to use one."





## UNION SPEAKS OUT AGAINST E-CIGARETTES

The Trades Union Congress (TUC) has described e-cigarettes as “a problem at work,” arguing that they have no place in work settings and are potentially hazardous.

The union says it has received recent enquiries from health and safety representatives asking for guidance on the devices and that, while the electronic nicotine delivery systems are not banned, they should be subject to the same controls at work as real cigarettes.

Noting that US authorities have discouraged their use, Hugh Robertson, Senior Policy Officer for Health and Safety at the TUC said, “Certainly e-cigarettes do contain a number of carcinogens and toxins, but these are likely to be at much lower levels than with

cigarettes made with tobacco.”

He added, “In answer to the specific question about their legality, e-cigarettes are not covered by the ban on smoking in enclosed workplaces and public places, but an employer does have control over whether their employees can smoke them while at work.”

Furthermore, he argued, given that the long-term effects of the fumes are an unknown, employers should not be allowing a potentially harmful substance to be used in the workplace under the Control of Substances Hazardous to Health (COSHH) regime.

It seems employers are already taking this stance. Last year, for

example, NHS Fife and Blackburn College made e-cigarettes subject to the same controls under their smoking policies as normal cigarettes.

The TUC is advising its safety representatives to try to ensure that employers do not allow the use of e-cigarettes in enclosed places or anywhere that smoking tobacco is prohibited. However, as part of health promotion campaigns, the union suggests representatives might want to work with employers to encourage smokers to switch to e-cigarettes and use them instead of tobacco cigarettes, but only in places not covered by the smoking ban.



## ENFORCEMENT ACTION

### GROSS NEGLIGENCE MANSLAUGHTER CHARGE FOR DIRECTOR

The Crown Prosecution Service (CPS) has announced it is to charge the director of an electric gate company with gross negligence manslaughter in connection with the death of a six-year-old girl in June 2010.

Semelia Campbell died on 28 June 2010 when she was crushed by electric gates in Manchester.

In response to the incident, and a similar one just a few days later on 3 July 2010, in which a five-year-old, Karolina Golabek, died, the Health and Safety Executive (HSE) issued a safety alert on the



subject of electric gates.

Commenting on the decision to bring charges against the director in the case of Semelia Campbell, Alison Norton, Specialist Prosecutor handling Special Crime in the CPS, said she had “carefully considered

all the available evidence” in the “tragic case” in which the child died after becoming caught in and crushed by an electric gate in the housing development where she lived.

Alison Norton said, “I have now concluded there is sufficient evidence and it is in the public interest to charge Kristian Kearns, director of the company that automated the gate, with gross negligence manslaughter.”

At time of writing Kristian Kearns was due to appear at Manchester City magistrates’ court on 12 March 2013.

### COMPANY FINED AFTER NORFOLK ENGINEER FRACTURED SKULL IN FALL

A Norfolk food company has been prosecuted for safety failings after a 49 year-old engineer fractured his skull and was left partially deaf after a three metre fall.

The worker sustained the serious head injury while investigating a fault with a data logger attached to a cooling unit.

Norwich Magistrates Court heard that he accessed the unit via a free standing ladder resting against the rear of the chiller without any top ties or foot supports to stop it from moving. It slipped as he went to get some tools and he fell three metres to the floor below, banging his head on impact.

The engineer spent four days in Addenbooke’s hospital following

the incident. He damaged a bone in his right ear, which left him partially deaf and unable to work for a month following the fall. He also has debilitating tinnitus and has only been able to work reduced hours since his injury.

An investigation by the Health and Safety Executive (HSE) established that had the ladder been better secured, or a safer alternative provided, such as an elevated work platform, then the fall could have been prevented.

The company was fined £10,000 and ordered to pay £11,690 in costs after pleading guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974.

After the hearing HSE inspector Joanne Williams said:

“This incident could easily have proved fatal. You do not have to fall from a great height to lose your life and work at height remains one of the most significant causes of fatalities and major injuries in the workplace.

“Extreme caution must be taken at all times, and the onus is on employers to ensure work is properly planned and supervised, and that adequate safety precautions are taken. That didn’t happen here, and the engineer has been left with a permanent injury.”

For advice or information about working safely at height visit [www.hse.gov.uk/falls](http://www.hse.gov.uk/falls)

[www.hse.gov.uk/falls](http://www.hse.gov.uk/falls)

SAVE  
THE  
DATE

## HEALTH & SAFETY SEMINAR



**Wednesday 3 July 2013**  
**Ricoh Arena, Coventry CV6 6GE**

Share best practice and hear relevant case studies on Health & Safety topics specific to the frozen food industry.

Network with other H&S professionals

Our previous seminars utilised a winning formula of speakers from the HSE, a Local Authority Inspector and case studies from BFFF members

Cost:

**£99 ex VAT per member delegate**

**£125 ex VAT per non-member delegate**

Contact Joanna Hancock for more details on 01400 283096 or  
Email [joannahancock@bff.co.uk](mailto:joannahancock@bff.co.uk)

***Sponsorship Opportunities Available***