

# KEEP IT SAFE

BFFF QUARTERLY HEALTH AND SAFETY UPDATE

**OCTOBER 2012**

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

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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

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# LAST CHANCE TO BOOK

Contact Joanna Hancock on 01400 283096 or [joannahancock@bfff.co.uk](mailto:joannahancock@bfff.co.uk)



**BFFF**

Event Sponsored By:

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## HEALTH & SAFETY SEMINAR SAFETY THROUGHOUT THE COLD CHAIN

### TOPICS TO BE COVERED:

HSE – Fee for Intervention, Lofstedt review and their priorities

### CASE STUDIES:

- Emergency planning for Ammonia Operations
- Safety in the cool chain from a Leading Manufacturer and Retailer
- Frostbite claims
- Manual Handling Assessments
- Slips and Trips 2 years on

### INDUSTRY SPECIALISTS:

- Dock Leveller Safety
- Business Continuity
- Managing Contractors
- Legionella - Managing the Risk
- Diesel Engine Exhaust Emissions
- Racking Safety

**DATE:** Wednesday 7th November 2012

**VENUE:** Ricoh Arena, Coventry CV6 6GE

**TIME:** 9.30am – 5.00pm

**PRICE:** £90 incl VAT per member delegate

£120 incl VAT per non-member delegate

### PRESENTERS INCLUDE:

HSE  
Asda Stores Ltd  
Brakes  
Chalcroft Construction  
Greggs plc  
Legionella Control Association  
Nestle  
Palmer & Harvey Ltd  
Roythornes LLP



### Feedback from the 2011 seminar:

'This seminar provided a good mix of topics, within a sensible timetable from a variety of speakers' Simon Williams, Cold Move Ltd

'A very worthwhile day if only to re-stress how important H&S is in the cold chain' Jon Barnes, Ardo UK Ltd

'An excellent good all round practical seminar, very informative and enlightening' Andrew Turner, Goodlife Foods Ltd

# BFFF HEALTH AND SAFETY INITIATIVES

## HEALTH AND SAFETY WORKING GROUP

The BFFF health and safety working group met on the 26<sup>th</sup> September and had a very productive meeting discussing a wide range of health and safety issues relevant to the industry. The group is a valued resource for the members as it provides a confidential health and safety forum for members to raise health and safety issues for consideration.

Within this newsletter we have highlighted brief details of the discussion topics at the last meeting, however please feel free to contact Joanna Hancock on [joannahancock@bfff.co.uk](mailto:joannahancock@bfff.co.uk) if you would like any further details.

## Servicing of Refrigerated Units on Vehicles/Trailers at Height

An issue has been raised both through the membership and also the Local Authority on the Safe Systems of Work in operation for engineers working on Refrigerated units on vehicles/ trailers at height. There have been a number

of accidents in this area leading to the Local Authority questioning the procedures in this area.

The working group have discussed the subject at length and BFFF investigation has led to the conclusion that there is no industry guidance available in this area. Therefore over the forthcoming months BFFF will be facilitating a meeting between all the relevant stakeholders to agree the safe system of work for this area and to provide guidance for the industry. Please contact Joanna Hancock if you would like to be involved in this working party.

## Delivery Point Risk Assessments

The development of delivery point risk assessments is a complex area in particular for the members delivering to varying multi-drop deliveries. In order to support members in this area, the group has decided to share templates of their delivery point risk assessments with the membership. We will be facilitating this through the web site and will be publishing them at the beginning part of next year.

Please feel free to share any of your delivery point risk assessment templates with BFFF. All references to your company will be removed and all final templates will be anonymous.

## Development of BFFF Health and Safety DVD's for Members

The group has agreed that a generic DVD on health and safety for our industry would be an extremely beneficial training tool to support members. A key point would be to ensure the DVD covers the crucial areas and contains relevant sections to enable members to select parts relevant to them.

BFFF is now investigating the feasibility of developing this tool whilst the group are gathering their thoughts on subjects they would like to cover.

## Evacuation following an Ammonia Leak

We have been contacted by a number of members on the matter of the appropriate procedures for evacuation following an ammonia leak. There have been questions on the most appropriate procedures in this area and members have found inconsistent advice across different Fire Services. This is a key area for the membership particularly with the fact that most members operate refrigeration plants with a good number using Ammonia as the refrigerant.

The group discussed this topic at length and felt that BFFF would value input from an expert within the Fire Service on this area. We are now planning for a representative from the Fire Service to attend our next working group meeting on the 30<sup>th</sup> January 2013.



This is an excellent opportunity for us as we will have the opportunity to directly question an expert in this area. In preparation for our meeting with them in January, we would welcome any questions from members that you feel would be relevant for us to raise with the Fire Service.

Please contact Joanna Hancock on [joannahancock@bfff.co.uk](mailto:joannahancock@bfff.co.uk) with your suggestions.

your thoughts to Joanna Hancock on e mail [joannahancock@bfff.co.uk](mailto:joannahancock@bfff.co.uk)

In the meantime, BFFF Members and Solicitors Roythornes are undertaking a survey into the use of social media in the workplace. Despite social media blurring the lines between work and home life for many employees, some employers have yet to put in place measures to police or control the use of social media by their employees.

survey which aims to provide a 'snapshot' of what firms are doing to tackle the issue and whether they are aware of their on-line presence. The report will be freely available once all responses have been collated. The survey is open until 31st October 2012 and can be found here: <http://svy.mk/QyDLdP>.

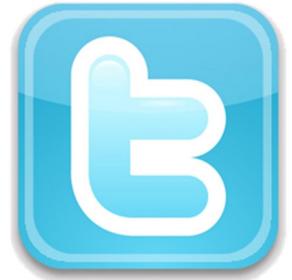
## The Use of Social Media

The subject of Social Media was discussed at the last meeting. BFFF is considering whether we should broaden our current use of this area to include health and safety.

We would be interested to gather members' opinion on whether you would like to see more regular updates from BFFF on relevant Health and Safety articles via social media such as Linked in, Twitter or Facebook. Please could you send

Whether using company computers to access their Facebook page, or posting comments about their day at work, employees are interacting with social media and employers need to be aware of this and the potential issues that can arise.

We have devised a short six question



## Agency Driver Prosecution

Our meeting was rounded off with a presentation from one of the group regarding a prosecution they had following an accident involving an agency driver who had been injured when moving a roll cage. Their presentation alerted members to the importance of suitable and sufficient training and instruction and to ensure it is documented. Please feel free to contact Joanna Hancock if you would like further details.

The group highlighted that tail lift safety and safe use is a massive concern throughout the industry. They suggested that this could be a potential area for BFFF to develop guidance which would cover the main areas being the type of tail lift, the environment and the process. The group will be considering the next steps for discussion at the next meeting.



## BFFF Health and Safety Pledge

The pledge has been supported well by the membership over the past three years since its launch and enforcing authorities have been encouraged by the positive attitude shown by our industry in this area. To date, 60 member companies are signed up to the pledge and we would like to encourage all members to consider

including this as part of their health and safety management.

We reviewed the pledge during our last health and safety meeting and we will be including a new statement within the pledge related to BFFF health and Safety guidance. The new pledge will be issued in December and we shall look forward to as many of you as possible joining us in this initiative.



## Diesel Engine Exhaust Emissions and Lung Cancer

There has been much talk in the press over the past few months on this subject as diesel engine exhaust emissions are now categorised as carcinogenic. We discussed at the meeting whether we felt that members needed to

be advised in this area to take any specific action.

The group agreed that the risk is minimal in our industry and it was noted that within the May HSE board meeting HSE stated that they are not targeting work on

professional driver organisations at present on this topic.

For further details on this subject an expert will be presenting at the BFFF Health and Safety Seminar on the 7<sup>th</sup> November.



## BFFF HEALTH AND SAFETY SEMINAR- 7<sup>TH</sup> NOVEMBER 2012

The working group has created an excellent seminar for the industry based this year on the theme of safety throughout the cold chain. We have a packed program of speakers from industry specialists speaking on the subjects of Dock Leveller Safety, Business Continuity, Managing Contractors, Legionella, Diesel Engine Exhaust Emissions and Racking Safety.

We have also case studies from BFFF members on Emergency planning for Ammonia Operations, Safety in the Cool Chain, Frostbite claims, Manual Handling Assessments and Slips and Trips.

Many members have already booked their place so please contact Joanna Hancock to reserve your place.



## POTENTIAL PRIMARY AUTHORITY AGREEMENT FOR BFFF

BFFF is currently exploring the idea of entering into one of the first Trade Association Primary Authority agreements relevant to Health and Safety and we took part in a pilot workshop organised through the BRDO earlier this month.

A primary authority agreement is a contractual relationship between Local Authorities and multisite businesses located across different council jurisdictions. The agreements mean that where businesses have a common approach to regulatory compliance across a number of differently located sites, their systems can be agreed with one local authority and must be recognised in law by other local authorities and therefore not subject to enforcement challenge.

The Enterprise and Regulatory Reform Bill is currently going through parliament to make it possible for Trade Associations to enter into such agreements. The amendments are expected

# BRDO

## Better Regulation Delivery Office

to become law by October 2013 however the BRDO are encouraging shadow schemes to run in operation until then.

This new scheme for Trade Associations will work by the Trade Association choosing an appropriate primary authority partner. They will then agree the full scope of the agreement. For example there are 18 different enforcement categories for a primary authority agreement and BFFF is exploring the categories of Health and Safety, Food Safety & Hygiene and Food Standards (labelling). Once the agreement is in place then BFFF members enforced by the Local Authority would be able to also sign up with the chosen primary authority.

The main advantage for BFFF members' who are enforced by the Local Authority and choose to take part in the scheme, will be the possibility of producing assured guidance and advice through our partner primary authority that cannot be legally challenged.

Throughout October we will be continuing to explore the possible suitable partner authorities and will be liaising with the relevant committees on the suitability of this scheme for BFFF members.

This is quite a complex scheme so please feel free to contact Joanna Hancock if you would like to know more details and how this may benefit your business. We will be canvassing you for your opinions in the near future and we will keep you updated with the developments.

## SAFETY FOCUS FEATURE

### DOCK LEVELLER

#### SAFETY

This quarterly safety focus feature is a new initiative for members from the BFFF Health and Safety working group. For each edition of Keep it Safe we will be highlighting to the members a topical area in Health and Safety.

The subject of Dock Leveller Safety is the first topic of safety focus for this feature. Loading Docks present a number of significant risks which require careful management. Differing specifications for docks and vehicles, visiting drivers and the lack of direct communication between drivers and warehouse staff all contribute to potential problems.

To support the industry on this topic, new guidance has been developed called the 'Loading Dock Safety Guide'. This guidance has been published in a working partnership between the Freight Transport Association (FTA) Logistics Safety Working Group, Warehouse Safety Forum and IOSH Retail Distribution Group.

The guidance explores the key loading dock hazards posed by the interface between the warehouse and the vehicle (the loading dock). These particular key hazards being:

- Drive- Away
- Vehicle creep
- Load roll-away

- Trailer tip
- Water ingress

The guidance works through potential control measures for each key hazard and goes on to provide a number of examples of safe systems of work and surveys for dock, vehicle/ trailer and buffer position.

Chris Moore from Asda will also be presenting on the subject of Loading Dock Safety at our Safety Seminar in November. This seminar is available to all members so please feel free to book your place for the opportunity to find out more detailed information on the guide and the for the opportunity to ask questions on the subject.

The HSE workplace transport checklist also features within the guidance. This checklist has been in existence for some time now. It has been prepared as a guide to what employers should consider when trying to reduce the risk from vehicles in the workplace. It will not necessarily be comprehensive for all work situations however we feel that it is a useful tool for the membership. The HSE workplace transport checklist is available through the link, <https://www.hse.gov.uk/forms/transport/wtchk1.pdf>



The Loading Dock Safety guide is available through the following link [http://www.fta.co.uk/export/sites/fta/\\_galleries/downloads/health\\_and\\_safety/12160>Loading\\_dock\\_safety.pdf](http://www.fta.co.uk/export/sites/fta/_galleries/downloads/health_and_safety/12160>Loading_dock_safety.pdf).

## HSE FOOD INDUSTRY CASE STUDIES

### FALL THROUGH FROM COLD STORE CEILING

This case study outlines a prosecution of a company and a recruitment agency following a serious accident. It includes HSE action and advice for companies in this area.

#### Summary

Two companies were prosecuted when four agency workers fell while removing insulation panels from the ceiling of a cold store.

A fire had recently destroyed one of the company's cold stores and caused smoke damage in the adjacent store. The four agency workers and their foreman were tasked with the job of removing and cleaning the smoke-damaged ceiling panels from this adjacent store.

The ceiling panels were approximately 10cm thick and made of a rock wool type core sandwiched by two metal coated sheets. Their exact weight was not known but it took four men to lift them. The panels were screwed into horizontal metal supports, suspended from the roof truss and were approx 3.5 metres from the ground.

The agency workers were employed to pack fruit and vegetables, but in quiet times were given other jobs to keep them busy. While the men had all worked at the site for some time, none had any experience of working at height.

The men devised their own system of work to remove the panels, which involved accessing

the roof space via a doorway in a mezzanine floor, disconnecting the supports from the panels and using two fork lift trucks with cages. Working mainly from inside the raised cages, the men would remove the panels and rest them between the two cages, and they were then lowered to the ground. Sometimes they would use only one truck.

After several weeks work, the men had removed the majority of the ceiling panels. As they were stood on the remaining ceiling panels and moving one of the removed panels onto the raised cage, three of the panels gave way and they fell to the floor. All four suffered serious injuries - one had severe bruising, the second a broken pelvis and elbow, the third a badly broken arm and the fourth a broken leg and pelvis.

The investigation discovered that no risk assessment had been carried out for this work hence there was no safe system of work, and alternative methods (e.g. use of a scissor lift or MEWP) had not been considered. The men, who had little experience of such work, were left to devise their own methods using the equipment available. The roof panels were labelled as not being a work platform but this had not been taken into consideration. The cages used were home-made and did not meet standards required (and in any case were not integrated and should not have been used). There was no effective supervision, and the work was carried out with the full knowledge of the Company's Managing Director. There was no indication that any health and

safety management arrangements (effective or otherwise) were in place.

#### Action

The Company pleaded guilty to breaching Section 3(1) of the Health and Safety at Work etc Act 1974 for failing to conduct their undertaking in such a way as to ensure, so far as was reasonably practicable, the health and safety of persons not in their employment. They were fined £15,000 and order to pay costs of £1,862.

The recruitment company who provided labour to the cold store company pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974 for failing to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees. They were fined £5,000 and order to pay costs of £800.

#### Advice

Following the hearing, the HSE Inspector said:

"All four workers involved in this incident suffered extremely serious injuries and could have been killed. They were employed to carry out tasks on the factory floor, and had no experience in working at height.

"No risk assessment was carried out and no proper supervision took place whilst the ceiling panels were being removed - a serious failing on the part of both companies.

“Every month more than a thousand people suffer serious injuries as a result of slips, trips and falls in the workplace. These shattering injuries can be easily avoided.

“Employers and organisations that use agency workers have a joint responsibility to ensure the safety of all staff who work on site. Each party needs to be clear about their responsibilities to avoid serious incidents such as this.”

Further information on working at height can be found on the HSE website - [www.hse.gov.uk/falls](http://www.hse.gov.uk/falls)

## INJURY FROM REVERSING LORRY

This case study outlines the prosecution of a distribution company after an employee was seriously injured when his skull was crushed by a reversing lorry at one of the company’s depots. It highlights the importance of dock leveller safety as featured in our Safety Focus article this quarter.

### Summary

The employee was working the nightshift as a warehouse porter. An articulated HGV trailer was being reversed into an open loading bay while the employee waited to unload it. He noticed the trailer was not positioned straight in the bay, so thinking it had stopped moving, he put his head around the back of the trailer to shout instructions to the driver. Just as he did so, the trailer came back further, crushing his head against the brick bay wall.

Mr Mason received severe head injuries requiring constant care for

months and had to undergo several operations. He later returned to work but is still suffering long term effects from his injuries.

The investigation found that the company had not assessed, controlled, or properly managed the risks arising from vehicle and equipment movements at its depot. It had also failed to provide a safe system of work for its employees.



### Action

The company pleaded guilty to breaching Section 2 (1) of the Health and Safety at Work etc Act 1974 and was fined £150,000, with additional costs of £19,000.

### Advice

After the hearing, the inspector said: “Working with moving vehicles is a high risk activity which causes significant numbers of major and fatal injuries every year in this country. The company is well aware of these risks and this horrific incident in which a young man could have lost his life would have been avoided had the company’s senior management

ensured such risks were properly managed in all of its depots.

“This firm could have put in place a physical separation between the porters, moving vehicles and the loading bays and a safe way for porters and drivers to communicate with each other. None of these measures were evident and so a worker was seriously hurt for no good reason.”

Last year, 17 workers were killed and more than 530 suffered major injury after being hit by moving vehicles while at work in Great Britain. Of these, two workers were killed and 130 received major injuries resulting specifically from contact with a reversing vehicle.

# LEGISLATIVE UPDATE

## FEE FOR INTERVENTION UPDATE



### What is it?

The Health and Safety Executive (HSE) already recovers its costs in a range of industries but as of 1<sup>st</sup> October 2012 it will be extending its current systems of cost recovery to include a fee for intervention (FFI). This means an inspector *will be required* by law to charge for the inspection and any subsequent actions when a material breach of the law has been found.

A “material breach” is when, in the opinion of the inspector, there has been a breach of health and safety law which requires them to make a formal intervention such as an advice letter, improvement or prohibition notice.

HSE will replace the existing Health and Safety (Fees) Regulations 2010 with new regulations. In addition to carrying over the existing fees, these new regulations will place a duty on HSE to recover the costs of its interventions under the Health and Safety at Work etc Act 1974 and other health and safety law.

### Key Points

- FFI was intended to be launched in April 2012
- Although the changes put no new health and safety duties on businesses, they place for the first time a duty on the HSE to recover the costs of its interventions in certain circumstances
- Costs can be recovered if, during an inspection or investigation, a material breach (a failure to adhere to health and safety law identified by an inspector as requiring formal action) is discovered
- Fees apply up to the point where the HSE’s intervention in supporting businesses in putting matters right has concluded
- The HSE is keen to emphasise that law-abiding businesses will be free from costs
- HSE will recover costs at current estimates of £124 per hour. Costs of any specialist support needed by HSE would also be passed on

### Response

Birmingham Chamber of Commerce Group, among other bodies, has protested the decision. According to the Chamber, businesses will be charged at a rate of £124 an hour by HSE for serving enforcement notices and advice if they fail to comply with the “huge

volume of intricate and complex health and safety legislation”.

Vice President Steve Brittan has written to the Department of Work and Pensions, the Chancellor and Business Secretary Vince Cable claiming that the move could introduce a “profit motive” into the work of the HSE.

For the first time, he said, the HSE will be financially incentivised to identify problems and breaches.

“The proposal, which could see the average cost for an inspection resulting in a letter costing up to £750, will put needless and counter-productive costs on businesses that are rightly focused on doing business and creating jobs at this critical juncture,” Mr Brittan went on.

He warned that the changes could also put workers at risk by discouraging businesses from approaching the HSE for advice for fear of incurring massive costs.

Mr Brittan pointed out that the £124 rate could pay the hourly wages of 47 apprentices. He called on the Government to ensure that all but essential health and safety legislation is removed with the balance enforced “where appropriate”.

The Federation of Small Businesses (FSB) has similarly expressed concern that the Regulations could “damage relationships” and may be seen as a way to raise revenue rather than improving compliance. The FSB says that for a small or micro business, a bill of £750 or more for a material fault could be

“extremely damaging”, especially during difficult economic times.

The FSB is arguing that this will disproportionately affect micro firms as fees of this level will have a greater affect on the ability of the business to function and grow. It is concerned that small firms may view the proposal as a revenue generating exercise that could damage the HSE’s relationship with business. The Federation is also questioning whether the money raised would go to the HSE or to the Treasury.

## RED TAPE BLITZ TO CUT SAFETY INSPECTIONS

The Government has announced that “hundreds of thousands” of shops, offices, pubs and clubs are to be exempted from “burdensome health and safety inspections” in an effort to boost business growth.

The announcement promised that over 3000 regulations will be scrapped or overhauled, with binding new rules on both the Health and Safety Executive (HSE) and local authorities, from April 2013, to exempt certain businesses from health and safety inspections.

In future, businesses will only face safety inspections if they are operating in higher risk areas such as construction, or if they have an incident or a track record of poor performance.

The statement also outlined plans to introduce legislation next month to ensure that businesses will only be liable for civil damages in health and safety cases if they can be shown to have acted negligently.

The Business Secretary Vince Cable said, “In these tough times, businesses need to focus all their energies on creating jobs and growth, not being tied up in unnecessary red tape. I’ve listened to those concerns and we’re determined to put common sense back into areas like health and safety, which will reduce costs and fear of burdensome inspections.”

In response, the Institution of Occupational Safety and Health (IOSH) slammed the Government announcement as “misleading”.

Richard Jones, Head of Policy and Public Affairs at IOSH, said, “The talk of reducing around 3000 regulations and at the same time focusing on health and safety is misleading. There are only 200 health and safety regulations in total, so any reduction in these will be a tiny percentage of the 3000 and so far only 21 have been considered.”

He added that previous government reviews had found the British health and safety system to be broadly “fit for purpose” and warned inspection cuts could result in standards dropping and more people being killed or injured.

## CONSULTATION ON RIDDOR REPORTING REQUIREMENTS

The HSE is consulting on proposals to simplify and clarify how businesses comply with the requirements under the Reporting of Injuries, Disease and Dangerous Occurrences Regulations 1995, as amended (RIDDOR).

In a statement, HSE said the latest review formed part of its work to make it easier for businesses and

other users to understand what they need to do to comply with health and safety law, following recommendations made in Professor Löfstedt’s independent review of health and safety legislation that was published in November 2011.

Professor Löfstedt’s report identified concerns that the categories of reportable accident were unnecessarily complicated, and that it was often time-consuming for organisations to determine if accidents and incidents should be reported. Incidents involving members of the public were highlighted as a particularly problematic area.

The proposals also seek to implement the changes recommended in the 2010 Government Report by Lord Young of Graffham entitled Common Sense, Common Safety. In this regard, the consultation will re-examine whether RIDDOR is the best approach to providing an accurate national picture of workplace accidents.

The consultation follows the previous changes, as of 6 April 2012, by which RIDDOR’s over-three-day injury reporting requirement changed. The trigger point increased from over three days’ to over seven days’ incapacitation (not counting the day on which the accident happened).

The consultation ends on 28 October 2012. CD243: Public Consultation on Proposals to Simplify and Clarify RIDDOR Reporting Requirements can be accessed at <http://www.hse.gov.uk/consult/index.htm>.

## PROPOSALS TO REVIEW HSE'S APPROVED CODES OR PRACTICE (ACOPS)

HSE has recently consulted on its plans to review its Approved Codes of Practice as recommended by Professor Löfstedt's independent review of health and safety legislation 'Reclaiming health and safety for all'. HSE asked for views on proposals for the revision, consolidation or withdrawal of 15 ACOPs which are to be delivered by end-2013 and on proposals for

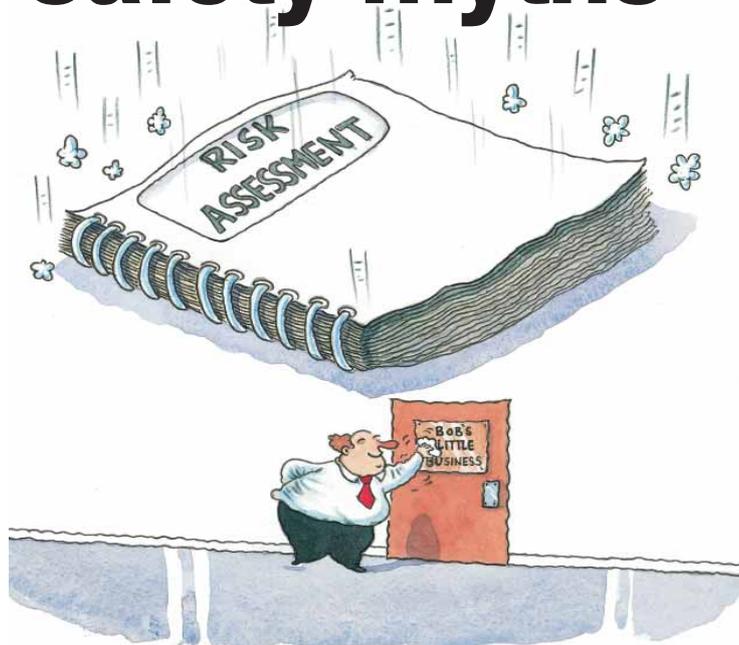
minor revisions, or no changes, to a further 15 ACOPs which are to be delivered by 2014. These include a proposal to withdraw the ACOP for the Management of Health and Safety at Work Regulations 1999 and replace it with a suite of more specific, updated guidance by 2013. It also seeks views on a proposal to limit all ACOP documents to a maximum length of 32 pages, other than in exceptional circumstances.

At this stage we have registered our interest in any revisions made to all the ACOP's that are relevant

to the membership. The next part of the process will be for HSE to consult with the interested parties on any changes they are proposing.

Some time back we played an active role in putting forward the members' views on the proposed ACOP incorporating L117 Rider operated lift trucks: Operator training guidance and HSG6. The final revised document should be available in December. We will keep you updated on any changes and the final publications.

# Great health and safety myths



**The myth** Risk assessment must always be long and complex

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

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

See what we mean - check out our example risk assessments.

## 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 joannahancock@bff.co.uk. Questions will be answered anonymously.

### SHOULD WE PROVIDE DEFIBRILLATORS?



**Q.** A number of employees have suggested that we should have a defibrillator on site. What is the legal position on this and how do we decide if it is necessary?

**A.** Coronary heart disease is the largest single cause of death in the UK. It is estimated that 12,000

people suffer a cardiac arrest in a public place each year.

There is no specific legal requirement for employers to provide defibrillators in the workplace. The Health and Safety (First-Aid) Regulations 1981 require the employer to provide, or ensure that there are provided, such equipment and facilities as are adequate and appropriate in the circumstances for enabling first aid to be rendered to employees if they are injured or become ill at work.

As such, employers have no obligation to provide first aid for members of the public.

However, many organisations provide a service for others and the Health and Safety Executive (HSE) strongly recommends that employers include the public and others on their premises when making their assessment of first-aid needs.

Responsibility for deciding whether to provide a defibrillator and

train staff in its use lies with an individual organisation. A decision should be made after conducting a well-documented risk assessment at the site in question. The HSE states that “there is no legal bar to employers making a defibrillator available in the workplace if the assessment of first-aid needs

indicates such equipment is required”.

L74, the Approved Code of Practice to the First Aid Regulations, provides guidelines on what should be considered when assessing first-aid needs. To supplement this, the Resuscitation Council also provides guidance. For example, important factors to consider when assessing the risk of cardiac arrest will include the number of people using a facility and the risk of cardiac arrest occurring at the site.

Current international resuscitation guidelines advise that evidence supports the establishment of public access defibrillation programmes (with the installation of an automated external defibrillator (AED)) when the:

- Frequency of cardiac arrest is such that there is a reasonable probability of the use of an AED at least once in two years
- Time from call out of the conventional ambulance service to delivery of a shock cannot reliably be achieved within five minutes
- Time from collapse of a victim until the on-site AED can be brought is less than five minutes.

## OVERTIME RISK ASSESSMENTS

**Q.** A number of employees wish to work beyond their normal working hours to increase their income. If employees wish to do so, do we have any legal obligations and should we be reviewing the relevant risk assessments for the activities being undertaken?

**A.** Under the Working Time Regulations employees are limited to the number of hours they may work over a given period (unless they wish to opt out).

However, it should be borne in mind that under s.2(1) of the Health and Safety at Work, etc Act 1974, there is an implied restriction on the employment of any employee for excessively long hours likely to cause physical or mental ill health or precipitate fatigue-induced accidents.

In respect of the qualification of the general duty by the words “so far as is reasonably practicable”, it should be noted that the burden of proving that hours were not excessive falls upon the employer.

The Health and Safety Executive guidance, HSG 256: Managing Shift Work, states that under the Management of Health and Safety at Work Regulations 1999, employers are required to make an assessment of the risks to employees from work activities, including “the number of hours worked and how these hours are scheduled”.

The main health effect of excessive hours of work is believed to be

tiredness and fatigue, which in turn may lead to an inability to concentrate, carry out heavy or strenuous physical work or work at a pre-determined rate. If the body becomes run down, then there may be an increased risk of contracting various infections and general malaise. Factors to consider when assessing the risks posed by the hazards of long hours include:

- the type of work and the equipment being used
- the workload of employees
- employee health, physical or psychological aspects
- personal needs and work experience of employees
- any special circumstances that may be on the site
- current work patterns being adopted
- impacts on other employees.

Where additional hours are allowed, it may be advisable to introduce some type of monitoring to determine if longer hours are causing any issues. This may include:

- investigating any incidents or ill health to determine if the longer hours are a causative factor
- monitoring accident and ill-health statistics for increases in incident rates
- encouraging employees to share any experiences or concerns they may have
- using assessment tools and techniques to highlight any potential problems.



## GUIDANCE



### COMPANIES TOLD: “IMPROVE MANAGEMENT OF LEGIONELLA”

The HSE has told businesses they need to “do more to protect workers and members of the public from exposure to legionella”. The safety watchdog’s warning came just before news of the death of a patient as a result of Legionnaires’ disease following the latest outbreak in Stoke-on-Trent in Staffordshire.

Along with the warning, the HSE has issued a safety notice after identifying common failings in legionella control, based on a review of outbreaks of Legionnaires’ disease in Britain over the past ten years.

The HSE’s findings confirmed that cooling towers and evaporative condensers are the most common source of significant outbreaks, with 90% of outbreaks said to stem from failure to recognise potential legionella problems or to adopt effective control measures.

The notice also stresses the need for “effective and consistent” monitoring of water quality and the importance of responsibilities being assigned to named individuals with proper

management oversight.

The HSE and local authorities are currently said to be developing “a range of initiatives” to encourage better control of the legionella risks.

Commenting on the issue, Paul McDermott, the HSE’s legionella expert, said, “Our research has confirmed the importance of businesses following the well-established and readily available guidance. Through this safety notice we are reiterating what those responsible for the maintenance of water systems should be doing already.”

He added, “They have a responsibility to manage the risks they create to protect workers and the wider public. This is a reminder to them of what the law expects. Failure to comply with the law means they may face legal sanctions, including in the most serious cases prosecution through the courts.”

Management of legionella was covered in detail in the last issue of Keep it Safe but here is a quick guide on how to implement a legionellosis control procedure.

- Check for water systems where airborne droplets may be formed both inside and outside buildings.
- If there are cooling towers or evaporative condensers on the premises, ensure that these have been notified to the Local Authority.
- Ensure that an assessment of the risk of legionellosis has been carried out by a suitably

competent person.

- Identify hazards in the system, giving consideration to:
  - physical aspects
  - water storage conditions
  - water outlets.
- If there is a significant assessed risk to health, draw up a written scheme for controlling the risk and appoint a senior person to take managerial control.
- If there is no significant risk to health, continue to review the risk assessment at suitable intervals and when changes to water systems are made.
- Ensure that regular maintenance and monitoring are undertaken.
- Set up a procedure to respond to suspected cases of Legionnaires’ disease.
- Ensure that any necessary training is provided for any specific tasks.
- Plan a record keeping system for all assessment, maintenance and monitoring

carried out.

### LADDER ASSOCIATION LAUNCHES LADDER EXCHANGE 2012

From the 1<sup>st</sup> September to 30<sup>th</sup> November 2012 anyone who buys, uses or has the responsibility of supervising the use of ladders, can take advantage of this year’s campaign which enables ‘dodgy’ ladders to be replaced for brand new ones- at a preferential price- at any of the Ladder Exchange’s official partners. Please visit

the following web site for more information <http://ladderexchange.org.uk/>

<http://ladderexchange.org.uk/>

## HSE ISSUES SAFETY ALERT ON HOOPED LADDERS

In July HSE issued a Safety Alert reminding dutyholders of the need to fully assess the risks from work at height involving fixed hooped ladders.

The alert was issued in response to research report *RR657 - Investigation into the fall-arresting effectiveness of ladder safety hoops, when used in conjunction with various fall-arrest systems*. The main conclusion of the report was that:

- There is no evidence that hoops (also known as cages) on ladders provide complete fall arrest capability.



- Conversely if a fall arrest system is used there is a risk that the hoops can compromise its operation or effectiveness in preventing injury.

### HSE's position

HSE does not recommend the blanket removal of hoops from ladders (which would probably increase overall risk), or to prohibit the use of personal fall arrest systems within hooped ladders. While the report concludes that hoops alone do not provide positive fall arrest capability, they can provide other safety benefits such as getting on and off the ladder that the report does not explore.

### Action required

Dutyholders should be aware that the hoops of a ladder alone may not be effective in safely arresting a fall without injury. Dutyholders are therefore advised to review their risk assessments and consider if additional fall protection is required or alternative means of access supplied.

Where dutyholders choose to use fall arrest equipment inside a hooped ladder to arrest a fall they should be aware that hoops may interfere with the operation of some types of fall arrest equipment (for example inertia reel devices). Dutyholders should contact their manufacturer or supplier for advice on the performance of such equipment when used in a hooped ladder.

Users of fall arrest equipment inside a caged ladder should also be aware of the possibility of injury from striking the cage following a fall. The use of climbing helmets to reduce

the risk of injury may need to be considered.

## HSE LOGISTICS FAQs

In the HSE Logistics portal ([www.hse.gov.uk/logistics](http://www.hse.gov.uk/logistics)) there is a Frequently Asked Questions (FAQ) section that will be of interest to British Frozen Food Federation members.

The FAQs cover various topics, including:

- Risk Assessment (how to carry them out)
- Fork lift truck cages (when they can be used)- please note that there is specific guidance separate from this for the frozen food industry for use within cold stores.
- Manual handling (recommended weight limits)
- Slip accidents (prevention in icy conditions)
- RIDDOR (what is a RIDDOR accident and how to report)

The portal provides handy links to relevant documents and other areas of the HSE website.

## REPORT ON AIDS TO PREVENT WRULDS

The HSE has published a new research report on the use of mechanical aids and automation for reducing the risks of repetitive handling tasks involving the upper limbs, in order to prevent work-related upper limb disorders (WRULDs).

The aim of the research was to provide practical examples of risk control measures used in industry.

The report points out that limited relevant information is currently available on the use of automation

and mechanisation as a control measure to reduce the risk of upper limb disorders.

Therefore, the report sets out 14 case studies, with the majority relevant in a variety of manufacturing settings. For most of the case studies, a “before” and “after” scenario is provided, where the task was previously manually performed and has since been automated.

The case studies illustrate how a variety of machines have been used in industry, eg in sealing boxes, packaging sausages and fish filleting.

The report concludes that:

- the equipment shown in the case studies within the report could be used in a variety of situations and discussions with manufacturers could help to develop bespoke solutions for organisations to reduce the risk of WRULDs
- industry needs to carefully consider the use of mechanisation and automation — the introduction of automated systems may have unforeseen results and worker consultation is always recommended
- organisations should reassess risks following implementation of automation or mechanisation, eg to ensure that new risks have not been introduced.

RR939: An Investigation into Mechanical Aids and Automation for Reducing the Risks of Repetitive Handling Tasks involving the Upper Limbs can be accessed at <http://www.hse.gov.uk/research/rrhtm/rr939.htm>.

## HARD-HITTING CAMPAIGN HIGHLIGHTS THE IMPORTANCE OF FIRST AID



St John Ambulance has launched a new campaign, *Helpless*, including a new TV advert, which highlights that up to 140,000 people die each year in situations where first aid could have helped save lives- as many as die from cancer.

The film follows the journey of a man who is diagnosed with cancer, undergoes treatment, and survives only to die as a result of choking at a family gathering because no one knows the basic first aid that could have saved his life.

The campaign comes on the back of new research from St John Ambulance showing that over four times as many of us think more people die from cancer than a lack of first aid- when there is compelling evidence to take both equally seriously.

St John Ambulance state ‘Our message is that first aid is simple to learn- just text HELP to 80039 for a free pocket guide so you can be the difference between a life lost and a life saved.’

More information is available on the St John website [www.sja.org.uk/sja/about-us/latest-news/hard-hitting-new-campaign.aspx](http://www.sja.org.uk/sja/about-us/latest-news/hard-hitting-new-campaign.aspx)

## NHS HEALTH FOR WORK ADVICE LINE FOR SME'S



The NHS is offering a free Health for work advice line for small to medium businesses, on all health issues affecting employees. Call the advice line on- 0800 0 778844 or go to the web site [www.health4work.nhs.uk](http://www.health4work.nhs.uk)

Scotland: Healthy Working Lives advice line, 0800 019 2211, [www.healthyworkinglives.com](http://www.healthyworkinglives.com)

Wales: Health at Work Advice Line Wales; 0800 107 0900, [www.healthyworkingwales.com](http://www.healthyworkingwales.com)

## PORTABLE APPLIANCE TESTING FAQs

There are many common myths about portable appliance testing (PAT). HSE has created a FAQ section to provide the key facts about inspection and testing or portable electrical equipment. Visit the HSE web site <http://www.hse.gov.uk/electricity/faq-portable-appliance-testing.htm> for more information.

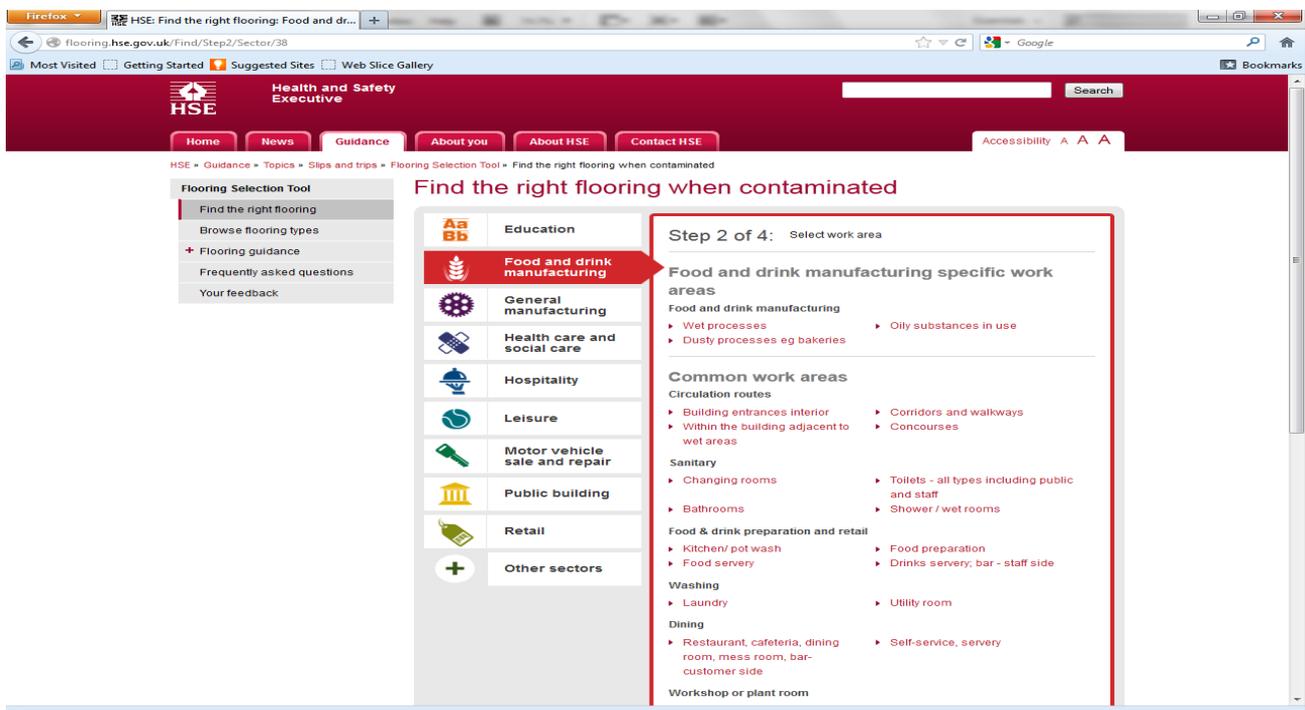


## HSE FLOOR SELECTION TOOL

HSE has developed a Floor selection tool. It is designed to help businesses identify types of flooring for installation in new or refurbished workplaces that are likely to retain their slip resistant

properties when contaminated with some common liquids. However, flooring can lose its slip resistance properties depending on how well the floor is installed, maintained and treated.

The tool includes a section for food and drink manufacturing so to find out more details view the HSE web site <http://flooring.hse.gov.uk/>



## TOP 10 HEALTH AND SAFETY “MYTHS”

In an attempt to clear health and safety's bad name, the HSE has published a list of instances in which health and safety regulations have been wrongly cited as an excuse to mask poor service, or refusal to meet simple requests.

HSE's Myth Busters Panel compiled the list from submissions of “ludicrous rulings” made by insurance companies, local authorities and employers. Some of the “blatant and disturbing examples of people using health and safety as an excuse...ranging from a smokescreen for a whole host of unpopular decisions to completely nonsensical interpretations of what the law

requires”, according to HSE chair Judith Hackett, include:

- a boot supplier claiming that it was banned from accepting dirty boots for return
- cafés and restaurants refusing to heat up baby food
- a golf club telling players that golf buggies were not health and safety authorised
- a hospital refusing the use of a microwave on a ward
- a gym-goer being told he could not lift weights without wearing trainers
- a woman being banned by her boss from wearing sandals in the office in summer
- a passenger being refused a blanket on a flight but told she could buy one

- a campsite banning sleeping in a camper van
- a primary school's tree house having to be located away from the premises because of a risk to children
- a council banning a nursery teacher from taking children to an allotment.

While HSE emphasised that it had taken these claims “at face value” as it did not have the resources to investigate each incident, only to rule on whether or not health and safety law applied, Ms Hackett said the campaign's aim was to expose how some organisations hide behind the term, which trivialises the real work of health and safety — “to prevent death, serious injury and ill health caused by work”.

## ENFORCEMENT

### REFRIGERATION COMPANY FINED FOLLOWING DEATH OF WORKER

A refrigeration company has been fined £110,000 following the death of a worker on 1<sup>st</sup> December 2009. The 61 year old worker was killed when an unsecured racking unit collapsed on him at the company's factory in Bradford.

He had been asked to dismantle a stacking system due to a reorganisation of the factory. However despite the fact that the racking was not properly bolted to the floor, employees had been using it to store items, making it unstable.

He was kneeling on the floor while removing labels from items of stock when the racking collapsed, trapping him. He subsequently died from head injuries sustained during the collapse.

HSE inspectors found a number of safety failings including no indication of maximum working load, no inspection of the racking and no training for employees.

HSE Inspector Irwin said: "Sadly, the case was based on a catalogue of errors on the part of the company. There was no system to manage the racking, no identification of the racks and no inspection regime. No one had properly looked at the risks of the racking system, or how to move it and re-install it safely. People joined in and helped out as and when.

"But, most importantly, there

was nothing to identify that the racking was not in use – no warning notice, or barrier tape. At some point, workers started to fill it. The more it began to fill, the more dangerous it became."

The firm appeared at Bradford Crown Court on 6 September, pleading guilty to breaching s2(1) of the HSWA 1974 and, in addition to the fine, was ordered to pay £30,000 costs.

HSE Inspector Irwin added: "I hope this case serves as an important reminder to companies to make



sure racking systems are securely fixed and measures are in place to manage them carefully and, in particular, when they are being dismantled."

### THIRD CORPORATE MANSLAUGHTER CASE

A steel storage products company has been fined £480,000, while charges have been dropped against the company's three directors, in the UK's third major corporate manslaughter case.

Charges were brought under the Corporate Manslaughter and Corporate Homicide Act 2007, among others, against Lion Steel Equipment Limited and three of

its directors following the death of employee Steven Berry.

On 29 May 2008, Mr Berry, a maintenance man at Lion Steel Equipment Limited, fell some 13 metres to his death through a skylight in a roof at the company's factory premises in Hyde, Greater Manchester. He had gone onto the roof to repair a leak.

The company was fined £480,000, to be paid in four instalments between 2012 and 2015. Three of the company's directors, Kevin Palliser, Richard Williams and Graham Coupe, went on trial on manslaughter charges too, but at the end of the case, the charges against all three were dropped.

In the sentencing, Judge Gilbert QC said, "In my judgement the risk of a fall through the roof was an obvious one, and those running the company should have appreciated it..."

The judge added, "I am satisfied that the compensation to which Mr Berry's estate and dependants must be entitled can be dealt with through the civil process."

The case follows the first two British corporate manslaughter cases. The first was brought against Cotswold Geotechnical Holdings, after Alexander Wright, a 27-year-old Geologist, died when a pit he was working in collapsed. The second related to the death of 45-year-old Robert Wilson, on a pig farm owned by JMW Farms Limited. The farming company was fined £187,500 while Cotswold Geotechnical Holdings was fined £385,000.