

KEEP IT SAFE

BFFF QUARTERLY HEALTH AND SAFETY UPDATE

OCTOBER 2013

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 if you have any health and safety issues or wish to receive additional/back copies

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



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BFFF HEALTH AND SAFETY INITIATIVES

BFFF HEALTH AND SAFETY WORKING GROUP

We are delighted to welcome a new member to the working group for the future. Gareth Dunne Operations Director for Bar Foods will be joining the group and we are looking forward to having his operational input from a Food Producer point of view.

We had an excellent working group meeting on Wednesday 25th September. We had a packed agenda which sparked great discussion and sharing of best practice amongst the group. The group members were able

to take a lot away from the meeting and some great work streams for us on behalf of the members. Topics of discussion included Legionella Management, Fleet risk programmes and Picking and Put away strategies. Please feel free to contact Joanna Hancock for any detailed information on these topics.

The working group have been busily working on member health and safety queries this month which include the necessary training for articulated

fork lift trucks, first aider training requirements and retrospectively fitting lifts. All queries have been answered by the working group with full confidential answers to the members who raised the questions. This confidential service is available for all members so please feel free to send through any queries where you would like industry feedback.

LEGIONELLA INTERVENTION PROGRAMME 2013



As previously reported in Keep it Safe, HSE are undertaking a Legionella Intervention Programme with their aim of promoting sustainable compliance. All premises with Cooling Towers and Evaporative Condensers will be inspected.

It is early days within the campaign however some members that have been inspected have experienced issues resulting in **enforcement action**. Some of the emerging issues include:

- the competence of the Water Management Companies
- suitability of risk assessments
- incomplete records
- issues with the design and management of the drift eliminators
- inadequate mesh on the top of the cooling tower to prevent ingress of any materials that may enter the tower.

This is just a selection of some of the issues and HSE will be providing us with a full report on the outcomes early next year. If you experience any issues please do let us know. This will be treated as confidential information; we will just be collating the issues into a summary form for the membership. So please contact Joanna Hancock if you would like to share anything with us or if you would like any more detail on the enforcement action our members have already experienced.

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

Work is continuing on the second draft of this guidance. Feedback from the full stakeholder group is that they would like to include an example of a safe system of work within the guidance so we are currently gathering the necessary information to complete this. The Enforcing authorities are lined up to review the final draft once available.

The guidance still reflects the fundamental principle that if work at height cannot be avoided, then 'personal fall restraint/ prevention equipment should be used by all refrigeration engineers whilst working at height.'

Please feel free to contact Joanna Hancock if you would like more information on this draft document.



MEMBERS' COLLATED STATISTICS FOR 2012

First of all we would like to thank all members that contributed to our Health and Safety Statistics for 2012. With circa 60 members all sending us their accident data, the resulting data is an excellent benchmarking tool for the industry.

The second phase of this work is to look at the top three accident categories for our members, to look at the detail behind the accidents and whether collectively we can work to reduce the accidents in these areas.

The top 3 producer issues were:

- Hit by moving/ falling object
- Slips and Trips
- Hit by something fixed/ stationary

The top 3 wholesaler and LSP issues were:

- Slips and Trips
- Hit by moving/ falling object
- Manual Handling

Work has now begun to collate this information to see if there are any emerging trends that we can take advantage of. This work will be completed within the next month when we will report the outcomes to the membership. A massive thank you once again to those members that were able to share their information with us.

SECTOR SPECIFIC INFORMATION							
SECTOR	NO. OF RESPONSES RECEIVED	AVERAGE Rate of injury per 100,000 employees for the sector					% CHANGE 2011-2012
		2008	2009	2010	2011	2012	
PRODUCERS All Accidents	31	19,016	17,446	20,828	17,953	18,909	5.3%
PRODUCERS Reportable only		1,489	1,261	1,673	1,609	942	-41.5%
WHOLESALEERS All Accidents	20	10,688	12,991	10,648	13,174	10,678	-18.9%
WHOLESALEERS Reportable only		1,354	1,736	1,990	2,168	1,433	-33.9%
LOGISTICS SERVICE PROVIDERS All Accidents	7	n/a	n/a	15,417	12,806	16,025	25.1%
LOGISTICS SERVICE PROVIDERS Reportable only		n/a	n/a	1,768	1,855	1,244	-32.9%

POTENTIAL FIRE SAFETY PRIMARY AUTHORITY

It is hoped that a Primary Authority for Fire Safety will be available from April 2014. In preparation for this, we have teamed up with Lincolnshire Fire and Rescue to provide the membership with advice on topical areas for our industry before the official launch date. This means that we are aiming to have some industry advice ready for the launch for members to take advantage of. The Health and Safety working group have agreed their priority topics and Joanna Hancock is meeting with the Fire Service to agree the subjects to take forward.

Our Primary Authority in Fire Safety will be available to all members and

the details of the scheme will be available in January 2014. We will keep you updated with the details and please feel free to contact Joanna Hancock to express your interest in the scheme.



PRIMARY AUTHORITY



MEMBER BENEFIT

Primary Authority Scheme

BFFF is delighted to be able to offer a new Benefit Scheme exclusively for members

The Scheme

BFFF can now offer agreed Industry advice for members under a new scheme called Primary Authority. The advice is 'assured' which means it is backed by law and cannot be challenged.

The scheme is free for members to join and will help support members to stay on the right side of regulation.

To take part Members can choose to sign up to any combination of the regulatory categories below:

- *Health and Safety*
- *Food Safety*
- *Food Standards (Labelling & Composition)*
- *Weights and Measures*

BFFF partners to deliver this service are the Environmental Health team in Wakefield and the Trading Standards team in Cambridgeshire. Both of these Local Authorities specialise in Primary Authority and have expertise in the frozen food industry.



Key benefits for signed up members include:

- Advice and guidance has Regulatory backing, if you follow it, you cannot be asked to do something different.
- Access to the advice of dedicated Environmental Health and Trading Standards Professionals who are experts in the Frozen Food Sector and know how enforcement works!
- It is free to join the scheme and the key benefits of assured advice and guidance with legal backing are also free. Support through any enforcement action or business specific queries do attract a modest 'at cost' charge.

If you have any queries about the scheme please contact:



Su Dakin
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 Email: sudakin@bfff.co.uk

- Food Safety
- Food Standards (labelling & composition)
- Weights and Measures

Joanna Hancock
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- Health and Safety



SAFETY FOCUS FEATURE

YOUNG PERSONS

In January 2013 a 16-year-old apprentice was killed just three weeks into his job when he became trapped in the machine he was using, suffering serious head injuries. This tragic accident highlights once again that employers need to be aware of the factors that make young persons particularly vulnerable in the workplace.

For the purposes of employment, a “young person” is defined as someone between the minimum school leaving age (usually 16 years) and 18 years while someone who is below the minimum school leaving age is considered to be a “child”.

The Management of Health and Safety at Work Regulations 1999 specifically require employers to identify, assess and address risks to young persons before the young person starts work. This would also extend to work experience placements.

When undertaking risk assessments for young workers, employers need to be aware of three key elements. The first is inexperience, given that young persons may have never been in a work environment before and may not be familiar with appropriate or safe behaviour. This is not so much of an issue in low risk workplaces but higher risk activities such as those found in food manufacture such as fork lift trucks and use of machinery present more of a problem.

The second element is a lack of awareness of risks or danger. Risk awareness is not something we are born with but is learned through a mixture of experience and education. As such information and training concerning the risks and the control measures to be adopted must be given to the young person (or, in the case of a child, to the parent/guardian or other person with legal authority) before they start work.

Lastly, physical and/or psychological immaturity plays its part. While young

persons are generally at no greater risk than other employees in the workplace, there are some defined hazards that employers must take into account. In psychological terms young persons may be easily influenced or pressured into unsafe work practices by older colleagues or peers.

Physical hazards include exposure to vibration, especially low-frequency whole-body vibration, which may cause spinal damage in young people as their bones and supporting muscles are not fully developed until approximately age 25. Additionally, they may be less skilled in handling and moving techniques or in pacing the work to match their capacity. Exposure to this type of vibration should be avoided or, at least, controlled by restricting the exposure time and/or level. Young people with non-occupational Raynaud’s disease should not carry out tasks involving exposure to hand-arm vibration.

Young people may also be at greater risk of musculoskeletal damage from work involving strenuous and/or awkward moving and handling activities, prolonged or poor postures, etc. while their muscles and bones are still developing and maturing. Again such activities should be avoided, or at least controlled, by restricting exposure time, introducing task rotation, ensuring adequate recovery periods and rest breaks, etc.

For further guidance, the HSE’s **Young people at work** microsite contains examples of physical, biological and chemical agents, as well as various work situations, that employers must consider as part of any risk assessment for young persons.

View the site at: <http://www.hse.gov.uk/youngpeople/>.



HSE FOOD INDUSTRY CASE STUDIES

WORKER SEVERS FINGERS

The following case study outlines an incident when a bacon curing company has been fined after an employee lost three fingers when his hand became trapped in a packaging machine.

Summary

The employee was walking through the company's curing department when he saw bacon joint packs falling to the floor from the cutting unit. In an attempt to prevent this, he stood to the side of the conveyor, leaned over and put his left hand into the cutting unit. However, the machine was still switched on and his hand became trapped between the machine and the cutting blades, resulting in the loss of three fingers up to the first joint.

The HSE investigation found that the company had not ensured that effective measures were taken to prevent access to dangerous parts of the

machine, namely the cutting blade by the provision guarding to prevent access to the cutting unit. Other similar machines at the site were adequately guarded. A guard was subsequently fitted to the machine following the accident.

Action

The company pleaded guilty to contravening Regulation 11 of the Provision and Use of Work Equipment Regulations 1998 and was fined £30,000 and ordered to pay £31,000 costs.

Advice

The investigating inspector said: "This incident was entirely preventable. The



company had failed to prevent access to dangerous parts of the machinery which led directly to the employee's injuries.

"Lessons need to be learned by employers, to ensure that potentially dangerous machinery is suitably guarded and that their workers are aware of the risks involved when working with these machines."

FATALITY FOLLOWING FALL FROM STEP LADDERS

The following case study outlines an incident at a wholesale bakery. In this case, both the bakery and their company manager were prosecuted following the death of a handyman who sustained fatal injuries after falling from a stepladder.

Summary

The handyman had been asked to build shelving in the company's storeroom by the site manager. He was making and fitting timber shelving to a racking system using tools and materials provided by the company.

During the morning he had been seen standing on a stepladder while working on the shelving. At around midday he was found lying on the floor bleeding from a severe head wound, with the stepladder beside him. He was taken

to hospital, but died two months later as a result of his injuries.

During the subsequent investigation inspectors issued a Prohibition Notice stopping any work at height because of the unsuitability of all access equipment. The stepladder which was deemed to be in very poor condition was taken from the bakery by HSE inspectors. The manager who had appointed the handyman failed to provide a safe system of work.

Action

The company pleaded guilty to breaching Section 2(1) Health & Safety at Work etc Act 1974. They were fined a nominal sum (£1) as the company had ceased trading, with considerable debts, between the accident and court hearing.

The company's manager also pleaded guilty to breaching Section 2(1) of

the Health & Safety at Work etc Act 1974. He was fined a total of £300 and ordered to pay costs of £200.

Advice

After the hearing, the HSE's Inspector said:

"The consequences of this tragic incident will be felt by the deceased's family for ever but it was so easily preventable. As the risk of a fall was foreseeable, the company and its manager should have carried out a full site-specific risk assessment and planned and organised the work to be carried out in a safe manner.

"Where access to heights is required, even for relatively short term work, they are ultimately responsible for assessing and planning the work and ensuring that it is carried out in a safe manner using suitable access equipment."

LEGISLATIVE UPDATE

RIDDOR CHANGES

The HSE has published details of the changes that it intends to simplify the mandatory reporting of workplace injuries for businesses under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) in October 2013.

The changes to RIDDOR 1995 are designed to “clarify and simplify” the reporting requirements, while ensuring that the data collected gives an accurate and useful picture of workplace incidents.

The main changes will be in the following areas:

- The classification of “major injuries” to workers will be replaced with a shorter list of “specified injuries”.
- The existing schedule detailing 47 types of industrial disease will be replaced with 8 categories of reportable work-related illness.
- Fewer types of “dangerous occurrence” will require reporting.

However, there will not be any significant changes to the reporting requirements for:

- fatal accidents
- accidents to non-workers (members of the public)
- accidents resulting in a worker being unable to perform their normal range of duties for more than seven days.

The HSE says the changes will require fewer incidents to be reported overall and it is estimated that they will result in a net benefit to business of £5.9 million over a 10-year period.

They will not alter the current ways to report an incident at work and the criteria that determine whether an incident should be investigated will remain the same.

ASBESTOS ACOP CONSULTATION

The consultation, CD255 Consultation on Draft Revised Approved Code of Practice (ACOP) Managing and Working with Asbestos, sought views on HSE’s proposed consolidated version of the ACOP L143 Work with Materials Containing Asbestos. Control of Asbestos Regulations 2006 and the ACOP L127 The Management of Asbestos in Non-domestic Premises.

The consultation aimed to establish whether the changes in the new ACOP, Managing and Working with Asbestos, would make it easier for employers to understand and meet their legal obligations.

The significant revisions and other changes of note that have been made are as follows.

Material supporting regulations 2, 3, 9 and 22 of the legislation has been revised to reflect changes to the law on the notification of certain non-licensed work with asbestos and the arrangements for segregation of asbestos work areas, medical examinations for employees and keeping health records.

Material supporting regulation 10 has been reviewed and updated to help employers understand what they need to do to provide information, instruction and training for employees.

Revisions have been made to reflect changes made by the Control of Asbestos Regulations 2012 which came into force in 2012.

The consultation closed on 30th September.





The revised and updated ACOP to the COSHH Regulations proposed by HSE would eventually replace the fifth edition of the COSHH ACOP. The key changes include:

- revision of the text to make it easier for duty holders to understand and comply with their legal duties
- revision of the text to take account of the introduction of the EU Classification, Labelling and Packaging of Substances and Mixtures Regulation (CLP)

- moving information on the principles of good control practice from an annex to the guidance, associated with regulation 7 of COSHH

- clarification of the requirements of regulation 9 of COSHH, relating to thorough examination and test of control measures.

The consultation closed on 23 August 2013.

DSEAR ACOP CONSULTATION

The DSEAR consultative document sought views on HSE's proposed consolidated version of certain parts of five ACOPs related to DSEAR. The five existing ACOPs are:

- L134 Design of Plant, Equipment and Workplaces
- L135 Storage of Dangerous Substances
- L136 Control and Mitigation Measures
- L137 Safe Maintenance, Repair and Cleaning Procedures
- L138 Dangerous Substances and Explosive Atmospheres.

Stakeholder organisations have contributed to the consultation exercise resulting in the five existing ACOPs being consolidated into a revised L138, which would update the contents and features. The HSE says the new ACOP would offer:

- greater clarity and increased use of "at-a-glance" lists as well as a reduction in the use of large blocks of text
- the promotion of guidance text on regulation 7 to ACOP status, and demotion or removal of repetitious ACOP text
- an emphasis on proportionality and the avoidance of overlapping risk assessments

- moving, for convenience, the schedules relating to regulations 6 and 7 from the end of the document to accompany the relevant regulation

- updated regulatory sections of text (to include minor changes made since 2002).

The HSE has pointed out that the Regulations themselves remain unchanged and so there are no new requirements for compliance.

The consultation, CD254: Consultation on Dangerous Substances and Explosive Atmospheres Regulations 2002 closed on 23 August 2013.

FIRST AID

The Health and Safety (First Aid) Regulations 1981 have been amended to remove the requirement for HSE to approve first aid training and qualifications.

The change is part of HSE's work to reduce the burden on businesses and put common sense back in to health and safety, while maintaining standards. The new approach applies to businesses of all sizes and from all sectors.

Information, including the regulations and guidance for employers is available on the HSE website at <http://www.hse.gov.uk/firstaid/>



Q & A'S

LAUNDERING PPE



Q. Do we have to launder our worker's cold store work wear?

A. Firstly we need to be clear about whether the work wear is considered to be personal protective equipment (PPE). If so, the employer has a duty under Regulation 7 of the Personal Protective Equipment at Work Regulations 1992 to "ensure that any personal protective equipment provided to his employees is maintained (including replaced or cleaned as appropriate)".

That said, the Guidance to Regulation 7 does state that employers are not forbidden to ask employees to clean their own PPE but that it should be stipulated in the person's contract of employment. Furthermore the Guidance states any costs of cleaning materials should be borne by the employer.

However should the PPE be contaminated by a hazardous substance then the employer should ensure it is either replaced or properly cleaned by someone competent to do so rather than have the employee clean it.

For information on a selection of our member's policies in this area please contact Joanna Hancock.

DOCK LEVELLERS

Q. Must dock levellers be subjected to thorough examination as required by LOLER (the Lifting Operations and Lifting Equipment Regulations)?

A. Dock levellers do not fall under LOLER as their primary purpose is not for lifting but for ease of access. As such they will fall under the general requirements of the Provision and Use of Work Equipment Regulations (PUWER).

HSG 76 - Warehousing and storage: A guide to health and safety (paragraph 533) states that: "You should have a planned routine maintenance system, as well as an effective system to report defects and carry out remedial repair work".

In addition, PUWER makes inspection

requirements a little wider than just maintenance, by stating that the employer's inspection (for correct installation and safe operation) should occur in the following periods.

- After a piece of equipment has been installed and before it is put into service for the first time.
- After the equipment has been assembled at a new site.
- After the equipment has been placed in a new location.
- Thereafter, at regular intervals.
- Every time exceptional circumstances occur that are likely

to affect the safety of the work equipment, e.g. major upgrades, refurbishment or repairing known damage.

GUIDANCE

FALL IN FATAL INJURIES TO WORKERS

The HSE has published its latest official statistics, indicating a significant decline in the number of workers killed in Britain last year.

The provisional data released by the safety watchdog reveals that 148 workers were fatally injured between April 2012 and March 2013, compared with 172 in the previous year.

In addition, the overall rate of fatal injury has dropped to 0.5 per 100,000 workers, below the five-year average of 0.6.

The new figures also show the rate of fatal injuries in several key industrial sectors, with a total of 39 fatal injuries to construction workers being recorded. This equates to a rate of 1.9 deaths per 100,000 workers, and is a decrease on

the 48 deaths recorded in 2011/12.

In the case of the waste and recycling sector, 10 fatal injuries to workers were recorded, a rate of 8.2 deaths per 100,000 workers, and an increase from the 5 deaths recorded in 2011/12.

Across Great Britain, there were interesting differences too, as follows.

- In England, 118 fatal injuries were recorded – a rate of 0.5 deaths per 100,000 workers, and a decrease from the 131 deaths recorded in 2011/12.

- In Scotland, 22 fatal injuries were recorded – a rate of 0.9 deaths per 100,000 workers, and an increase from the 19 deaths recorded in 2011/12.

- In Wales, 8 fatal injuries were recorded – a rate of 0.6 deaths per 100,000 workers, and less than half the 19 deaths recorded in 2011/12.

Announcing the figures, Judith Hackitt, the HSE Chair, said, “These figures are being published in the same week as the 25th anniversary of the Piper Alpha disaster, and are a reminder to us all of why health and safety is so important. Although the number of people killed at work has dropped significantly, last year 148 people failed to return home to their loved ones.”

The new statistics can be viewed at www.hse.gov.uk/statistics/fatals.htm.

REVISED GUIDANCE ON HEALTH AND SAFETY MANAGEMENT SYSTEMS

The HSE has launched newly revised guidance to help make it easier for larger organisations and businesses to understand how to manage health and safety.

The safety watchdog says it has “completely refreshed and enhanced” the guidance in Successful Health and Safety Management (HSG65), which is aimed at business leaders, owners, directors, trustees and line managers, and the information is now available on its microsite on **Managing for health and safety**.

The guidance is split into four key sections as follows:

- core elements of managing for health and safety
- doing what is needed
- delivering effective arrangements
- resources.

The HSE says the information will also be of value to workers and their

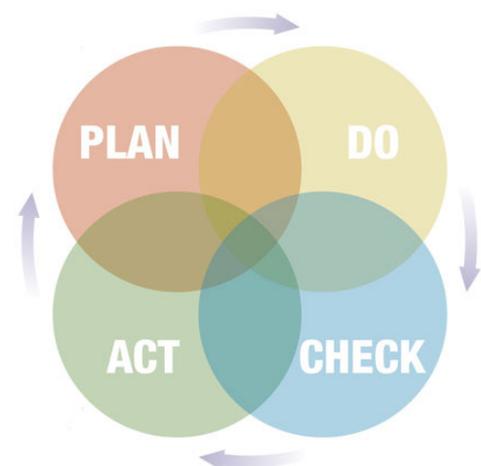
representatives while the third section will be of great help to those responsible for putting in place or overseeing their organisation’s arrangements for health and safety, including health and safety practitioners and training providers.

The new guidance is said to represent a move away by the HSE from using the Policy, Organising, Planning, Measuring performance, Auditing and Review (POPMAR) model of managing health and safety to a “Plan, Do, Check, Act” approach. The latter approach is intended to achieve a better balance between the systems and behavioural aspects of management, as well as treat health and safety management as an integral part of good management, rather than as a stand-alone system.

Clarifying the legal status of the guidance, Andrew Cottam, HSE’s lead author of Managing for Health and

Safety said, “Following the guidance is not compulsory, unless specifically stated, and businesses are free to take other action, but if they do follow the guidance they will normally be doing enough to comply with the law.”

A new edition of the publication HSG65 on health and safety management is currently being prepared. HSE’s **Managing for health and safety** microsite can be found at www.hse.gov.uk/managing/





FIRE SAFETY AND HOT WORK

Hot work is defined as “operations requiring the use of open flames or the local application of heat or friction”. There are many procedures that might involve or have the potential to generate sufficient heat, sparks or flame to cause a fire. This includes welding, flame cutting, soldering, brazing, grinding and the use of other equipment incorporating a flame, e.g. tar boilers, etc.

Hot work is clearly a known source of ignition and therefore has the potential to create a significant fire risk for the premises. As an example, sparks and molten material from hot work can be scattered more than 35 feet during welding, cutting and grinding. These sparks and slag are typically at a temperature above 1000 F when expelled from the hot work operations. At this temperature, materials such as paper, wood, flammable liquids, vapours, and many other combustibles can be easily ignited if they are in the vicinity of the hot work activities.

As well as the initial risks of ignition, hot work can be a cause of rapid fire spread. Reasons for this include:

- work being undertaken in areas with limited fire stopping (e.g. roof voids)
- sparks and slag falling through

cracks and other floor openings, starting fires in hidden locations

- work being undertaken by persons with little knowledge and awareness of fire risks and precautions
- work being undertaken in higher risk environments (e.g. confined spaces)
- pipes or other metal with conductive heat igniting combustible walls, partitions, ceilings, roofs or other combustibles
- containers and piping containing flammable vapours or fumes with the possibility of explosions and fire.

Clearly the need to undertake hot work will be very much dependent on the work activities to be completed and it may not be possible to detail in the premises fire risk assessment specific issues. However, in general terms, hot work can be addressed and management control measures adopted. This will be linked in with the wider contractor management arrangements that the organisation should be employing.

Hot work should only be undertaken if no satisfactory alternative method is feasible. The person responsible for fire safety should therefore evaluate the need to perform hot work. He/she should determine whether the hazard

can be avoided or minimised.

The use of a hot work permit is appropriate in circumstances where work will involve flames or sparks, where flammable materials are close by and when work is to be completed in environments where such activities are not normally carried out. Any hot work permit system that is adopted should be tailored to the particular needs and risks found within the specific premises in question.

Typically, the permit will include:

- administrative details (permit title, number, job location, etc.)
- description of the work to be undertaken
- hazards identified and precautions required
- fire-fighting equipment available
- time limits for work duration
- specific work methods required
- sections for authorisation, acceptance, hand-back and cancellation signatures.

Insurance requirements should also be considered as, given the increased fire risk, insurers will take a keen interest in ensuring that correct precautions are taken otherwise a claim may be repudiated should a fire occur. For instance insurers should be notified if sprinklers are deactivated.

DSEAR AND DUSTS



When we talk about explosive atmospheres under the Dangerous Substances and Explosive Atmospheres Regulations (DSEAR) we tend to think more about obviously explosive substances such as petroleum or gas fumes. However dusts can be a significant risk in food manufacture.

Under DSEAR, an explosive atmosphere is considered to be a mixture, under atmospheric conditions, of air and one or more dangerous substances in the form of gases, vapours, mists or dusts which, if ignited, results in the spread of combustion to the entire unburned mixture. The three key ingredients needed for an explosion or fire to occur are:

- fuel
- air or oxygen
- an ignition source.

A dust cloud of combustible material will explode where:

1. the concentration of dust in air falls within the explosion limits; and
2. a source of ignition of the required energy is present.

Examples of combustible dusts in the food manufacture industry include materials such as flour, custard powder, instant coffee, sugar, dried milk, potato powder and soup powder.

For guidance on how to control dust explosion hazards see HSE's microsite on dust explosion at www.hse.gov.uk/food/dustexplosion.htm along with HSE publication HSG103 'Safe handling of combustible dusts – precautions against explosions' available to download from www.hse.gov.uk/pubns/priced/hsg103.pdf.

FIRST AID REGULATIONS: REVISED GUIDANCE PUBLISHED

As of 1 October 2013, the Health and Safety (First-aid) Regulations 1981 have been amended to remove the requirement for the Health and Safety Executive (HSE) to approve first-aid training and qualifications. Ahead of changes to these regulations, the Health and Safety Executive (HSE) published revised guidance to help businesses put in place appropriate arrangements for the provision of first aid.

L74 The Health and Safety (First-aid) Regulations 1981. Approved Code of Practice and Guidance is aimed at all industries and takes account of the amendment to regulation 3(2), which removes the requirement for the HSE to approve the training and qualifications of appointed first-aid personnel, and incorporates some additional amendments brought about by other previous legislative changes.

GEIS3 Selecting a First-aid Training Provider will help employers identify and select a competent training provider to deliver any first-aid

training indicated by their first-aid needs assessment. The guidance on selecting a training provider outlines the options available to employers and includes a checklist for evaluating first-aid training organisations, covering trainer competence, quality assurance systems and syllabus content.

Andy McGrory, HSE's policy lead for first aid, said: "From October, HSE will no longer approve first-aid training and qualifications. The guidance documents clarify what the law requires and provide practical help to businesses in assessing and understanding their first aid needs. Where a first aider is required, the guidance documents make it clear that the employer is free to select a training provider who is best suited to those needs."

The legal requirement for employers to ensure they make adequate provision for first aid, in accordance with their first aid needs assessment, will remain unchanged.



SLIPS AND TRIPS

New Slips and Trips Microsite

We have now launched a new look Slips and Trips microsite on the HSE website. The new site is designed to provide visitors with improved guidance and information. Click on the new [Slips and Trips](#) website to find out more.

ALCOHOL AND DRUG TESTING



Introduction

Alcohol and drug problems in the UK are well documented and with our binge drinking culture and acceptability of illegal drugs, now more than ever it is important for companies to have a policy that can manage the problem of alcohol and drug misuse effectively and minimise the risk to their business.

What can you do to address the issue?

A policy should be robust but fair and give clear guidance to what is and isn't acceptable. The policy should provide an assurance that help and support will be offered to any employee with an alcohol or drug dependency who comes forward before they breach the policy.

There should be a section that covers the rules concerning alcohol and drugs, for example what will your level for alcohol be? You can have zero tolerance but not a zero level. For information, most companies use the current UK drink drive limit of 35mcg per 100ml breath alcohol concentration.

If you are introducing a policy or already have a policy it is important to communicate it with your workforce including agency and contracting workers. You will need to demonstrate that everyone was or is aware of your policy. It is also good practice to carry out awareness on an on-going basis to support the policy.

It is important to take into account the multicultural nature of your workforce and the perceptions of what is and isn't acceptable not just in terms of alcohol but also drugs. Therefore, clear guidance on the laws governing drugs both legal and illegal are recommended as what is legal in one country may not be legal in the UK.

Testing

Testing failure rates within the frozen foods industry can vary according to region. For example, if we compare the failure rates for random testing with other industries with a transient workforce, the frozen foods industry is on par with a failure rate of approximately 3%. For comparison, the failure rate in the construction industry is approximately 6%.

Testing can play an important role in the policy and can assist in an investigation to determine whether someone is "fit to work". Having testing in a policy can also encourage employees to come forward with a dependency problem earlier. The key is having a robust but fair policy with testing being part of the policy but not the only driver for it.

Testing Options

If you do decide to have testing in your policy, you need to decide when and how it will be carried out and by whom. Will it be your own staff trained to a competency level or by an independent collection service? There are no set rules for when to test, but most companies use for-cause and post incident testing as a minimum.

Testing Methods

For alcohol testing, breath is the most common method used, with urine or oral fluid the most common methods used for drug testing. It is important that whichever method you choose is legally defensible and follows workplace best practice.

Help and Support



You should have a process in place that is proactive so you are ready to support an employee who seeks help for an alcohol or drug problem. The process should be managed by the company and not the employee as this may lead to the mismanagement of the issue.

Hampton Knight

This editorial has been produced by Hampton Knight. Hampton Knight have



assisted many companies introduce and manage effective policies and we have successfully helped some of our clients in Employment Tribunal and disciplinary situations.

For more information on the issue of alcohol and drug misuse, please contact one of our dedicated advisors on 01827 65999 or visit our website: www.hamptonknight.co.uk

REVIEW OF ENFORCEMENT OF THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005

Businesses to benefit from better enforcement of fire safety regulation

The Focus on Enforcement review was carried out during Autumn last year and gathered evidence from businesses about their experiences of enforcement of the Regulatory Reform (Fire Safety) Order 2005.

Key findings include:

- **Evidence of good enforcement practice** – with businesses highlighting examples of Fire and Rescue Authorities (FRAs) providing advice and support through dedicated business

outreach teams.

- **Inconsistency of approach and advice** – with considerable variation in the approach to regulatory functions, and examples of conflicting requirements between different areas and different officers.
- **Enforcement notices are sometimes vague** – leaving businesses unsure what remedial action is required of them.
- **Confusing guidance** – with multiple versions of common templates, a variety of guidance documents, and companies reporting confusion between

guidance and legal requirements.

- **No obvious route for businesses to appeal decisions** – aside from a lengthy determination process or costly legal route, when companies sometimes just want a simpler mechanism for raising queries.
 - **Additional safety measures being required after each visit** – sometimes at significant cost to a company but with no real evidence of a change in risk.
- Contact Joanna Hancock at joannahancock@bff.co.uk for more information on how the potential BFFF Primary Authority Scheme for Fire Safety will be of benefit.

PORTABLE FIRE EXTINGUISHERS- AN ESSENTIAL TOOL



A recent survey by the Fire Industry Association (FIA) has highlighted that rather than declining in importance, portable fire extinguishers have an even more significant role to play as a first aid response to fire, with 88 percent of fires that are tackled with portable extinguishers actually being extinguished. This is an increase on the figure from a similar survey conducted back in 2003 which identified that in 80 percent of fires where extinguishers were employed, the fires were successfully put out. Of those fires 75% of incidents where without Fire & Rescue Services (FRS) being called.

There has been a lot of discussion over the last couple of years regarding the role of fire extinguishers. In a world where political correctness and health and safety excess sometimes overrides the application of common sense, some people have suggested that extinguishers should not be used under any circumstance.

The Fire Safety Order says 'Where necessary 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 fire-fighting equipment is simple to use

and indicated by signs. The responsible person must take measures for fire-fighting in the premises and nominate competent persons to implement those measures and ensure that the number of such persons, their training and the equipment available to them are adequate.'

The excuse for not promoting the use of extinguishers of 'we cannot guarantee that people have been properly trained!' is perhaps not a respectable excuse as training is readily available, in many formats and fairly simple. The size of fire seems to be the contentious point. It's not clearly defined. Convention says 'not larger than a waste paper bin size'. Those in the fire and rescue circles and extinguisher industries know the test fires, used to certify the fire ratings on extinguishers, are very significant and whilst the people testing the equipment are 'expert' in extinguishing the test fires, the test fires are not 'waste paper bin' sized – a very significant safety factor is built in, so please fear not.

The general interpretation is that an extinguisher (irrespective of size) will put out a small fire. Once a fire becomes too big - it is difficult to tackle with any size or any number of extinguishers.

Finally, as we have seen globally, it is not realistic to assume that any business is immune to natural or man-

made disasters not in a world in which a seemingly endless procession of fires, floods, hurricanes, explosions, power outages etc. However, please consider these odds: one out of two businesses never returns to the marketplace following a major disaster. Of those that do, half go bankrupt within three years. The ones that survive plan their response to a disaster before it strikes. Businesses need to prepare to meet the needs of their customers regardless of any disruptions that they may experience. Companies must recognise their vulnerability to disaster and their position in a competitive marketplace as the first step in business continuity planning.

TIPS ON KEEPING COOL AND SAFE AT WORK

HSE's website has specific pages dedicated to keeping cool and safe at work. They include pages on heat stress, avoiding dehydration and outdoor working. Find more information on these topics by visiting HSE's Temperature Website:

Heat stress guidance: <http://www.hse.gov.uk/pubns/indg451.pdf>

Dehydration: <http://www.hse.gov.uk/temperature/dehydration.htm>

Outdoor working: <http://www.hse.gov.uk/pubns/indg147.pdf>

SELECTING A SAFE CONTRACTOR FOR CONSTRUCTION PROJECTS

We would like to thank **Todd Hallam, EHS Director for Chalcroft Construction** for this guidance article on selecting a safe contractor for construction projects

Todd writes,

When appointing a contractor to undertake construction activities I am often asked by clients what is it that we should look for to ensure we are choosing the 'right' contractor and one that we feel is competent to undertake the work safely and efficiently. Often it comes down to confidence, experience, attitude and awareness but how do you choose that 'competent' contractor to ensure you are getting all of those attributes and what it says on the box - is really what's in the box.

Firstly we have to go back to basics and look at the fundamentals:

What are 'construction activities'?

The definition of construction work under the Construction, Design and Management Regulations (CDM) 2007 is long and varied however in summary it means the carrying out of any building, civil engineering or engineering and includes the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance, decommissioning, demolition or dismantling of a structure; the preparation for an intended structure including site clearance and investigation, the assembly on site of prefabricated elements to form a structure or the disassembly on site of prefabricated elements, the removal of a structure or of any product or waste resulting from demolition or dismantling of a structure, the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure.

Does CDM apply?

You bet it does. Any construction activity, like those listed above, falls under the CDM Regulations and if the

works are going to take longer than 30 days or 500 person days then there are additional duties and requirements under CDM.

Understanding CDM will take you a significant way to understanding how to appoint and manage the work and contractors under your control. Failure to understand CDM and apply it can have serious ramifications.

What makes a 'competent contractor'?

Quite simply - skills, experience and knowledge.

So how do you choose a competent contractor?

Understand the work that needs to take place first and discuss it with key members of your workforce or those that may be affected. This is important to determine the health and safety implications of the job and what arrangements are required to carry it out safely. This knowledge will greatly assist in determining whether potential contractors have the competency you are looking for.

Request information from potential contractors to determine their competency such as:

- What type, level and frequency of supervision will be provided for the duration of the works.
- Will subcontractors be utilised and what checks will be undertaken to determine their competency.
- Recent HSE history including prosecutions, Prohibition/Improvement Notices or Fee for Intervention Notices.

- Injury, Incident and RIDDOR history.

- Review their Health and Safety Policy (if they have 5 or more employees) to ensure it is up to date with legislative and industry standards and states their arrangements to comply.

- RAMS – review recent example risk assessments and method statements to ensure they are specific and suitably address identified hazards.

- Review qualifications, skills and training that should be relevant to the work and previous experience on similar jobs i.e. Gas Safe engineer, work at height, confined spaces, mobile tower, plant operation.

- Check for valid and suitable insurance and that it covers the works or doesn't have any exclusions i.e. no works over ten metres in height or over three metres in depth.

Once a contractor is appointed

Get involved. If you are having construction works taking place don't just leave them to it. Ensure regular meetings are taking place so works can be co-ordinated and it is clearly understood who is doing what and how. Just because a competent contractor has been appointed does not completely diminish the responsibility for works being undertaken on your premises. A simple five minute catch up first thing in the morning is often all it takes to safely co-ordinate a day's activities.

chalcroft

construction specialists for the food industry

Keep it simple

Safety processes and procedures can often be over complicated and for organisations that have had established management systems around for some years they can often be too onerous to properly maintain or implement. A common oversight is in the Permit to Work system where it is either a tick box exercise believing the accountability is then put onto the contractor undertaking the works and/or; the issuing of a Permit to Work where the issuer does not fully understand the works taking place and the hazards, risks and

controls required to manage the works.

Review, assess and evaluate

Monitor the works and ensure compliance is being met through periodic inspections and audits. The frequency of monitoring will depend on the level of risk associated with the work the contractor is performing. Ensure any non-conformance issues are actioned and at the end of the works evaluate their overall performance. It is important that the contractor is made aware of their areas to improve on as well as your own.

The following link to the CDM Regulations will provide all the information and guidance required to understand your legal obligations and assist even further in selecting a safe contractor:

<http://www.hse.gov.uk/pubns/priced/l144.pdf>

EAR DEFENDER PRODUCT RECALL

We have been informed that Centurion Safety Products have recently recalled a select number of batches of their S41 and S42 Ear Defenders. There is a possible manufacturing issue with these products manufactured in the few months leading up to August 2013. It is not a safety issue but one of stability and fit of the ear defender mounting on the helmet. BFFF are aware of the affected batch numbers so please contact us for further information or your supplier directly.

ELECTRICITY AT WORK: SAFE WORKING PRACTICES

HSE has published updated guidance called 'Electricity at work: Safe working practices'. This new guidance covers the key elements to consider when devising safe working practices and is for people who carry out work on or near electrical equipment. It includes advice for managers and supervisors who control or influence the design, specification, selection, installation, commissioning, maintenance or operation of electrical equipment. This third edition updates the guidance and provides sources of further information.

MAINTAINING PORTABLE ELECTRICAL EQUIPMENT

Do you have control over or use portable electrical equipment in the workplace?

HSE has issued new guidance for managers, electricians, technicians and users and gives sensible advice on maintaining portable electrical equipment to prevent danger. It covers equipment that is connected to the fixed mains supply or a locally generated supply.

It outlines a recommended maintenance plan based on a straightforward, inexpensive system of user checks, formal visual inspection and testing.

For low-risk environments please refer to Maintaining portable electric equipment in low risk environments^[3] in the first instance.

This guidance has been updated to clarify what the legal requirement for maintenance of portable electrical equipment means in practice. The table of suggested frequencies has been updated and now includes clearer information for all types of business including construction.

To view the guidance please see the following web link <http://www.hse.gov.uk/pubns/books/hsg107.htm>



ENFORCEMENT ACTION

COMPANY FINED FOR SCISSOR LIFT TRAINING FAILURES

A Merseyside company has been sentenced for failing to properly train staff on how to use equipment that enables them to work at height.

Knowsley-based Firesafe Installations Limited uses mobile elevated work platforms (MEWPs), such as a scissor lift, to access high work areas.

Southwark Crown Court in London heard today (11 April) that when a company employee was trapped between the guardrail of a scissor lift and some overhead ducting a colleague was unable to release him and bring him down because he was unaware of how to use the emergency controls.

Shaun Scurry, 39, of Kirkby, tragically died following the incident at the Westfield shopping centre in Stratford, East London, on 9 December 2009.

The court was told that although Firesafe Installations cannot be held directly accountable for the death, the company should have ensured staff knew how to operate the equipment they were using.

The Health and Safety Executive (HSE) investigated the fatality and established that familiarisation training was inadequate. Industry guidance dictates that such training is essential for anyone using MEWPs, and should be routinely

assessed because controls vary between different makes and models.

Firesafe Installations Limited, of Security House, Caddick Road, Knowsley Industrial Park South, was fined £30,000 and ordered to pay £29,000 in costs after pleading guilty to a single breach of the Provision and Use of Work Equipment Regulations 1998.

After the hearing HSE Inspector Eileen Gascoigne said:

“This tragic case underlines the importance of familiarisation training –



not only for direct operatives, but also those who may be required to take control in the event of an emergency.

“There is clear HSE and industry guidance on what is expected of companies working with MEWPs in this regard, and the failing of Firesafe Installations Limited is a clear example of why it is so important.”

Further information on working safely with MEWPs can be found on the HSE website at www.hse.gov.uk/falls/wait/mewp-multi.htm.

WORKER'S DEATH LEADS TO £75,000 FINE

A Nuneaton storage and distribution firm has been fined after a worker was killed when a tall stack of empty wooden pallets toppled on to him.

Marcin Rogala, 29, who lived in Harold Street, Nuneaton, was working at Ralph Coleman International Ltd on the Bermuda Industrial Estate in Nuneaton when the incident happened on 9 November 2010.

Warwick Crown Court was told today (11 April) that Mr Rogala and his colleagues were gathering up fallen pallets from a tall stack that had collapsed in the yard on that wet and windy morning.

As Mr Rogala and other workers removed the wooden pallets, another

tall stack toppled over. Others jumped clear but Mr Rogala was struck by the pallets, which weighed 36kg each, and died after sustaining multiple injuries.

An investigation by the Health and Safety Executive (HSE) found that a lack of effective management control over operations in the pallet yard, combined with high stock levels, had led to an unsafe environment and stacks being made too tall.

Ralph Coleman International Ltd, of Gresham Road, Bermuda Industrial Estate, Nuneaton, pleaded guilty to breaching Section 2(1) of the Health & Safety at Work etc Act 1974. The company was fined £75,000 and ordered to pay costs of £25,316.

Speaking after the hearing, HSE inspector Roger Amery said:

“This death was a tragedy which could have been prevented if this company had given proper and thoughtful attention to its pallet yard operation. Its failure to do so put other workers at risk and led to the death of Mr Rogala.

“Lots of firms form unsupported or freestanding stacks in their yards. I hope this death and the penalty imposed prompts them to check the condition and height of their stacks so that this doesn't happen again.”

HEALTH AND SAFETY MANAGER INJURED

A recent prosecution case, which followed an incident where a health and safety manager was badly burned in an accident at work, has highlighted a number of issues. Why did the manager behave in the way he did?

The case

The company has been fined £16,500 and ordered to pay £571 costs after pleading guilty at a Magistrates' Court to a single breach of the Management of Health and Safety at Work Regulations 1999 (MHSWR), relating to the provision of risk assessments.

The court heard how the health and safety manager at the company, climbed between the guard rails on a gantry at the top of a large oil storage tank to oversee it being jet-washed. As he did so, he knocked a pipe connected to a pressure gauge, which came off and released oil at a temperature of more than 160°C over his upper body.

The employee sustained 10% burns to his shoulder, upper arms, neck and back. He was off work for more than a month before later leaving the company.

After the case, the prosecuting Health and Safety Executive (HSE) inspector commented: "The employee was extremely fortunate not to be more seriously injured. If it hadn't been for the incredibly quick actions of colleagues who dragged him to an emergency shower, this incident may have had a very different outcome."

The legal position

Looking at the facts of the case as reported, it does appear that the employee was fortunate not to be prosecuted personally. Section 7 of the Health and Safety at Work, etc Act 1974 (HSWA) places a duty on employees to take reasonable care of themselves and others, and it appears that in this case the employee did not do so. He may also have been open to a charge under s.37 of HSWA, which gives special duties on health and safety matters to managers and other senior people.

Competence

The case also raises the question of the employees' competence, not only as an employee, but also as the company's health and safety manager. Regulation 7 of MHSWR requires employers to appoint at least one person to give health and safety assistance to employees. The meaning of competence has been a subject of complex debate but probably includes the holding of qualifications, and experience. The health and safety manager may have been competent using this level of criteria but competence is dependent upon many other factors, and this includes an individual's behaviour.

To be competent, employees not only need to be trained and qualified, but they need to have a positive attitude to health and safety and behave in a responsible manner. It appears that he did not have behave responsibly and put himself and others at significant risk.

Behaviour

The case reinforces the fact that it is an individual's behaviour that causes the majority of accidents. The health and safety manager deliberately defeated a guard rail system by climbing between the rails. Why did he behave in this way? What was his perception of the risk to himself when he took this course of action? What was going through his mind? This may explain why so many organisations are currently concentrating on a behavioural safety approach to prevent accidents.

Safety culture

The case raises questions about safety culture. He was the health and safety manager, and yet he took a "short cut" on health and safety. This gives a clue about the health and safety culture of the company: the organisation probably did not see health and safety as a key and genuine prime objective. A lack of positive safety culture from managers can have a detrimental effect on employees' attitudes and behaviour and can lead to accidents.

Leadership

He was described as a manager. It is well known from the many pieces of research that have been undertaken in the area that leadership is a vital ingredient to successful health and safety management. In this case, leadership looks to be woefully deficient and he set a very poor example to his colleagues.

Conclusion

Speaking after the case, HSE inspector Judith McNulty-Green said: "The whole point of a risk assessment is to ensure the risks associated with a particular task are considered and measures put in place to mitigate against them in order to keep workers safe. To carry out the work first and then write the assessment afterwards is foolhardy to say the least."

**SAVE
THE
DATE**

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