



## EUROSAFE (CDM SERVICES)

## NEWSLETTER JULY 2019

## HSE RAISES FFI CHARGE BY 20%

The Health and Safety Executive (HSE) has increased its fee for intervention (FFI) hourly rate from £129 to £154.

FFI was intended to recover costs incurred by the HSE during regulatory action against organisations that fail to comply with safety and health law, thus transferring the financial burden from the taxpayer to the business.

The new charge came into effect on 6<sup>th</sup> April and it is the second increase since the scheme was introduced in October 2012. The rate first went up in 2016 from £124. The HSE said the latest rise could be attributed in part to the fact that the scheme had been operating at a deficit. In 2017-18 the HSE reported a £1.9m loss from running FFI after the 15m it generated from fines to businesses was offset by its operating costs, which totalled almost £17m.

It said: "HSE must set the FFI rate with the aim of recovering its full cost and in recent years it has operated at a deficit (i.e. cost more than recovered in income). A combination of this and cumulative inflationary pressures support the increased hourly rate." A material breach is defined by the HSE as "something which an inspector considers serious enough that they need to formally write to the business requiring action to be taken".

Charlotte O'Kane, associate at law firm Pinsent Masons, told OSH Magazine: "The fee was originally £124 per hour to cover inspectors' time and that went up (in 2016) to £129 per hour, which is a relatively small increase. This is a much more significant jump, and duty holders will notice a difference in their FFI invoices given the roughly 20% increase in the hourly rate for HSE inspectors.

"It serves to emphasise the fact that organisations should ensure that they are complying with the law and operating safely. If an HSE inspector finds a material breach of health and safety law that is now going to be significantly more expensive."

The fee covers an inspector's time identifying and resolving the issue, as well as any investigation or enforcement action up to the point where the HSE's intervention has been concluded or a prosecution is started, or in Scotland when a report is submitted to the Procurator Fiscal. It is calculated by multiplying the time on FFI activity by the hourly rate.

## WHAT EFFECT HAS THE REPORT ON FIRE SAFETY HAD ON THE CONSTRUCTION INDUSTRY?

According to a survey of construction companies, a majority of firms in the sector 'have yet to change the way they work in line with' the recommendations made by Dame Judith Hackitt in the Independent Review of Building Regulations and Fire Safety.

Building reported on its survey of construction companies 'two years on' from the Grenfell Tower fire, in which it found that a majority of firms 'have yet to change the way they work in line with recommendations' made by Dame Judith in her report. Around 56% of firms 'had not changed how they assess the competence of their staff', while 49% had 'yet to change' the way that they 'carried out such competency checks' on their supply chain.

46% surveyed said they had 'not been swayed' by Hackitt's recommendations relating to changing the way building safety information was shared with supply chain partners, while 32% reported 'no change' in product specification or performance checks. Additionally, more than a third of those questioned reported 'no change' in terms of checking the quality of work undertaken on site.

Despite Dame Judith's report calling for a 'wholesale shift' in attitudes towards building safety, when respondents were asked how much change had taken place in their own operations, 'as many as one-fifth' of respondents reported 'no change', while a 'similar proportion' mentioned only 'middling change', and 'nearly half' of companies said there had been 'minor change'.

Another 32% of the companies said they were doing 'much more' in terms of product specification and performance checks, while only 18% were 'significantly stepping up' checks of the quality of on-site works.

## COMMERCIAL VEHICLE SAFETY – FREE COURSES

The Fleet Operator Recognition Scheme (FORS) is a voluntary accreditation scheme for fleet operators which aim to raise the level of quality within fleet operations; some contracts around the UK, particularly in London require all vehicles to be accredited with FORS.

It demonstrates that the operators are achieving exemplary levels of best practice in safety, efficiency, and environmental protection;

<https://www.fors-online.org.uk/cms/wp-content/uploads/2019/05/FORS-FIVE-REASONS-2019.pdf>

FORS recently released FREE driver training courses at locations across the UK taking place between now and November. Places are still available on FORS Professional Safe Urban Driving (SUD), Van Smart (VS) and LoCITY Driving courses, and are allocated on a first come, first served basis.

<https://www.fors-online.org.uk/cms/news/free-driver-training-courses-available/>



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### ROOFING CONTRACTOR SENTENCED FOR UNSAFE WORK AT HEIGHT

A roofing contractor has been sentenced for failing to take adequate precautions to prevent his workers falling from height and for breaching a prohibition notice. Llandudno Magistrates' Court heard how in April 2018 workers were observed working on the roof of a domestic two-storey house in Wrexham with no edge protection. A prohibition notice was issued preventing further work until control measures were put in place, but the contractor chose to ignore it and carried on working.

Asa Hamilton of Linthorpe Road, Buckley, Flintshire pleaded guilty to breaching Regulation 6 (3) of the Work at Height Regulations 2005 for failing to provide precautions to prevent falls from height and Sections 33 (1) (e) and 33 (1) g of the Health and Safety at Work, etc. Act 1974 for failing to comply with a prohibition notice.

Mr Hamilton was sentenced to 12 months imprisonment, suspended for 12 months, plus 200 hours unpaid work. He was also ordered to pay a contribution of £4,000 towards the costs. Speaking after the case HSE principal inspector Paul Harvey said "This was a serious incident and it is fortunate nobody was injured as a result of it. There are well known standards in the construction industry for controlling risks from falls from height. Even when the duty holder was served a prohibition notice to stop the activity they failed to take the appropriate action.

<https://press.hse.gov.uk/2019/06/13/roofing-contractor-sentenced-for-unsafe-work-at-height/>

### COMPANY FINED AFTER WOMAN CRUSHED TO DEATH BY ROLLER SHUTTER DOOR

An electrical company has been fined after a woman was fatally crushed by a roller shutter door.

Peterborough Magistrates' Court heard how on 14 August 2016 Heidi Chalkley pressed the button to open the roller-shutter door at Ruth Bagnall Court, Cambridge. She then held onto the grille as it raised and became trapped as it wound around the roller, fatally crushing her body.

An investigation by the Health and Safety Executive (HSE) found that the sensors at the top of the door were incorrectly wired and no longer functioned as the door opened.

B.S. Graves (Electrical) Limited had carried out work on the roller shutter door since 2012, including an inspection only a month before the incident. The company did not check the operation of the safety sensors and failed to identify the fault.

B.S. Graves (Electrical) Limited of Rushmere Close, Ramsey, Cambridgeshire pleaded guilty to breaching Section 3(1) of Health & Safety at Work, etc. Act 1974 and was fined £25,000 and ordered to pay costs of £6,500.

Speaking after the hearing, HSE inspector Graeme Warden commented: "This tragic and distressing incident has had an untold impact on all those who knew Heidi. It could have been avoided if the company had ensured employees were suitably trained to inspect the doors and the functioning of the safety sensors."



[https://press.hse.gov.uk/2019/06/10/company-fined-after-woman-crushed-to-death-by-roller-shutter-door/#utm\\_source=govdelivery&utm\\_medium=email&utm\\_campaign=digest-13-jun-19&utm\\_term=roller-door-death&utm\\_content=news](https://press.hse.gov.uk/2019/06/10/company-fined-after-woman-crushed-to-death-by-roller-shutter-door/#utm_source=govdelivery&utm_medium=email&utm_campaign=digest-13-jun-19&utm_term=roller-door-death&utm_content=news)