



## CORPORATE HEALTH AND SAFETY COMMITTEE – 19TH NOVEMBER 2012

**SUBJECT: RECENT HSE UPDATES**

**REPORT BY: DEPUTY CHIEF EXECUTIVE**

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### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform Members, Management and Trade Union Safety Representatives of recent updates in Health and Safety information, advice and guidance.

### 2. SUMMARY

- 2.1 The HSE have been seeking views on proposals to withdraw, revise or consolidate 15 Approved Codes of Practices (that provide interpretation of the law with legal status) in accordance with the recommendations of Professor Löfstedt's independent review of health and safety legislation.

Professor Löfstedt concluded that Approved Codes of Practice (ACoPs) should be simplified to make it easier for employers to understand and meet their legal obligations and so reduce the risks of over-compliance.

The documents under consideration for withdrawal or review include the ACoP to the Management of Health and Safety at Work Regulations 1999 for replacement with more specific guidance on the requirements for risk assessment and management; and the Health and Safety (First-Aid) Regulations 1981 with regards to a proposed removal of the requirement for the HSE to approve first aid training and qualifications and a review of the guidance to organisations to help them ensure they adopt proportionate first aid arrangements suitable to their workplace. The earliest the law could change with regards to first aid is April 2013.

Two ACoP's "*Rider Operated Lift Trucks: Operator Training*" and "*The Compilation Of Safety Data Sheets*" have also been identified for revision or withdrawal without consultation.

In a further aim at improving understanding, the consultation also includes a proposal to limit all ACoP documents to a maximum of 32 pages.

Professor Löfstedt's report "*Reclaiming health and safety for all: An independent review of health and safety legislation*" was published in November 2011 and can be found at

[www.dwp.gov.uk/docs/lofstedt-report.pdf](http://www.dwp.gov.uk/docs/lofstedt-report.pdf)

The Government accepted the recommendations and committed HSE to reviewing all of its ACoPs. The Government's response to the report may be found online at

[www.dwp.gov.uk/docs/lofstedt-report-response.pdf](http://www.dwp.gov.uk/docs/lofstedt-report-response.pdf)

The Consultation Documents regarding the review of ACoPs can be found on the HSE website: [www.hse.gov.uk/consult/condocs](http://www.hse.gov.uk/consult/condocs)

- 2.2 The House of Commons has voted in favour of a clause amending the Health and Safety at Work etc Act 1974, which will remove strict liability in cases where there has been a breach of a statutory duty. The proposed change to civil liability found in the Enterprises and Regulatory Reform Bill will now proceed to the House of Lords for consideration.

The recommendation was made by Professor Löfstedt in his independent health and safety review in 2011, in which his report noted that there are cases where employees have been awarded compensatory damages for injury, even where the employer has done everything that is reasonably practicably and foreseeable to avoid that injury. The reason for this is due to the strict liability on employers found in certain regulations, which makes them legally responsible for damage caused by their acts or omissions, regardless of whether they were negligent or failed to do all that was reasonably practicable. Löfstedt recommended that regulatory provisions that impose strict liability be reviewed by June 2013 and amended.

The amended clause will remove the right for certain civil claims to be brought for breach of a statutory duty contained in health and safety legislation, and the intended effect is that employers who have taken all reasonable precautions will not be liable to be sued for a technical breach of a statutory duty.

- 2.3 The Health and Safety Executive's (HSE's) new cost recovery scheme, Fee for Intervention (FFI), came into force on 1st October 2012.

Under the Health and Safety (Fees) Regulations 2012, those who break health and safety laws are liable for recovery of HSE's related costs, including, inspection, investigation and taking enforcement action. With effect from 1 October 2012, the fee payable by dutyholders found to be in material breach of the law is £124 per hour (except where HSL or third-party involvement is required where the actual costs of the work will be recovered. The fee will be reviewed annually. The total amount to be recovered will be based on the amount of time it takes the HSE to identify and conclude its regulatory action, in relation to the material breach (including associated office work), multiplied by the relevant hourly rate. This will include part hours.

Organisations that comply with their legal obligations will continue to pay nothing.

Detailed guidance is available to view and download from the HSE website:

[www.hse.gov.uk/pubns/hse47.htm](http://www.hse.gov.uk/pubns/hse47.htm)

- 2.4 Health and safety statistics for the financial year 2011/12 are set for release on 31st October. This release will give the latest statistics on work-related health, safety and enforcement in Great Britain.

There are a few changes that will impact on this release of statistics. From September 2011, the system used by duty-holders to report RIDDOR incidents changed. As a consequence, some RIDDOR data for the latest year (2011/12) will not be available at the same level of detail as for previous years. The HSE will continue to publish top-level RIDDOR figures for the 2011/12 year by:

- injury severity (fatal, major, over-3-day);
- top level industry (eg construction, manufacturing);
- top level 'kind' of accident (eg fall from height),
- dangerous occurrence types, and gas incidents.

The release of the statistics will include an online publication providing headline figures and commentary supported by a range of material on the Statistics website and will be updated with the latest data and tables. This will be available on the HSE website: [www.hse.gov.uk/statistics/hands-on](http://www.hse.gov.uk/statistics/hands-on)

- 2.5 Powys County Council has been fined a total of £9,300 and ordered to pay £15,990 in costs after Council employees, agency workers and passers-by narrowly avoided electrocution or injury on two separate occasions when kerb side collection vehicles collecting recycled material struck overhead power lines during the tipping of waste into the central body of the lorries, causing the power lines to fall to the ground.

Further information on working safely around overhead power lines can be found on the HSE website at [www.hse.gov.uk/electricity/information/overhead.htm](http://www.hse.gov.uk/electricity/information/overhead.htm)

### **3. RECOMMENDATION**

- 3.1 That the contents of the report be noted.

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