

# HSE SAFETY

# CORNERSTONES

Jan. 2016

## IN THIS ISSUE

### Health and Safety Fines Set to Dramatically Rise

*Beginning on 1st February 2016, fines for corporate manslaughter, food safety and hygiene offences, and health and safety offences will dramatically increase.*

### Remain Compliant to Avoid FFI Fines

*To ensure that your business is not fined for a breach of health and safety, be aware of the effects of Fee for Intervention.*

### Recent HSE News and Prosecutions

*Read about the lack of a risk assessment that cost two men their lives, an accident repair company that refused to be compliant, a care provider that drew a deadly bath, and a young boy who lost his life as a result of a national gas distributor's safety failings.*

## Health and Safety Fines Set to Dramatically Rise

Starting 1st February 2016, new guidelines from the Sentencing Council will dramatically increase fines for corporate manslaughter, food safety and hygiene offences, and health and safety offences. This will apply to any applicable sentence handed down on or after that date, regardless of when the offence was committed. The guidance is a response to what many legal experts saw as an inconsistent approach to sentencing severity, which resulted in lax fines that had only negligible effects on offenders. For example, few organisations have been fined even the minimum penalty of £500,000 when convicted of corporate manslaughter. But, that ineffectual approach will now change with these new guidelines.

In order to assign proportionate fines that have a significant impact on a business' finances and to deter the company from making the same offence again, the Sentencing Council separates businesses into the four following categories based on turnover and applies fines accordingly:

1. **Large organisations:** Turnover of £50 million or more
2. **Medium organisations:** Turnover between £10 million and £50 million
3. **Small organisations:** Turnover between £2 million and £10 million
4. **Micro organisations:** Turnover not more than £2 million

Organisations with a turnover that greatly exceeds the threshold for large organisations may receive fines outside of the suggested range to ensure the sentence is proportionate.

Starting 1st February 2016, the courts will classify organisations using the above criteria in order to hand out proportionate fines for these offences:

- **Health and safety offences:** Based on an organisation's offence, turnover, and whether the fine is proportionate to its financial means, fines range from £50 to £10 million.
- **Corporate manslaughter:** Based on an organisation's offence, its turnover, and whether the fine is proportionate to its financial means, fines range from £180,000 to £20 million.
- **Food and safety hygiene offences:** Based on an organisation's offence, turnover, and whether the fine is proportionate to its financial means, fines range from £100 to £3 million.

As the date the new guidelines will go into effect approaches, be sure to undertake a thorough risk management and health and safety review of your premises and policies. Solicit the input of your employees—asking them to identify their health and safety concerns can be vital in finding hazards that would not have been obvious to upper-level managers.

This long-awaited guidance furthers the trend of imposing ever-higher fines for regulatory offences and increasing corporate accountability.

Further, this reform is reflective of a broader sea change of ensuring that corporations are more transparent about their practices and the repercussions that they may have on the public. And, if corporations choose to limit what they share, or are unwilling to share, they should be prepared to be financially penalised. Contact **Crendon Insurance Brokers Ltd** today to ensure that your organisation is protected from these harsher, potentially crippling fines.



**Crendon  
Insurance  
Brokers**

# Remain Compliant to Avoid FFI Fines

October 2015 marked the third anniversary of the HSE's Fee for Intervention (FFI) scheme. The scheme allows the HSE to recover costs from businesses that an HSE inspector has deemed to be in 'material breach' of health and safety legislation. Once a breach has been identified, the business will be charged £124 per hour while an inspector investigates and works to resolve the issue. To date, the HSE has issued 47,830 invoices under the scheme and recovered almost £30 million—with the average fee costing each business £770.

Regardless of whether you manage the corner chippy or a national manufacturing firm, an HSE inspector may find an aspect of your operation to be in material breach. While the scheme provides no firm definition for a material breach—as each HSE inspector is able to form his or her own definition—it does provide several concrete examples:

- Inadequate machine guards
- Outdated or non-existent risk assessments
- Poorly defined travel routes either on a construction site, public road or within a building
- Not providing adequate facilities, such as no hot or cold water, for on-site workers
- Ineffective management procedures

After an invoice has been served, a business has 21 days to either challenge it or pay it. However, by paying the invoice, your business is admitting to the breach of health and safety, and the HSE could cite that as evidence in the future. Therefore, the most beneficial practice that your business can implement is a thorough risk management scheme that is reviewed at least annually and takes employees' concerns into consideration.



HSE SAFETY  
**CORNERSTONES**

**Crendon Insurance Brokers Ltd**

0121 45 45 100

[www.crendoninsurance.co.uk](http://www.crendoninsurance.co.uk)

## NEWS AND PROSECUTIONS

### National Grid fined £2 million over schoolboy's death

National Grid, one of the largest gas distributors in the United Kingdom, was fined £2 million and ordered to pay £36,102.90 in costs after a boy was killed playing on one of its pipelines. The 11-year-old boy and his two friends were running along the pipeline to cross the Leeds and Liverpool Canal when the child slipped, struck his head and plunged into the canal—causing him to drown. In its inspection, the HSE found that the company's records had incorrectly recorded that the pipe was buried and not exposed. This error caused the company to not install safety devices to prevent accidents such as this during regular inspections.

### Companies sentenced in HSE inspector's 'most horrific case'

Valmet Ltd and Sonae Industria (UK) Ltd were fined £410,000 and ordered to pay £214,000 in costs after two workers lost their lives at a Merseyside woodchip factory. Both men were performing maintenance on the conveyor when it unexpectedly began to operate—dragging both men into the machinery. In its investigation, the HSE found that both companies failed to conduct risk assessments for the task as well as provide proper safety precautions.

### Accident repair company fined for failure to comply

DM Accident Repair Centre Limited, an accident repair company, was fined £20,000 and ordered to pay £4,666 in costs after it failed to comply with an improvement notice from the HSE. The company had been using a spray booth that had not been inspected by a competent person. After issuing the notice, the owner was found to be uncooperative—even after repeated attempts from the HSE to get the business to comply.

### Care provider prosecuted after disabled man died from severe scalding

Ark Housing Association Limited was fined £75,000 after a care worker lowered a patient into a scalding hot bath. The 60-year-old man had limited movement as a result of being diagnosed with cerebral palsy and had also been diagnosed with epilepsy. When the care worker lowered the man into the bath without checking the water temperature, the man suffered an epileptic fit, as well as severe burns to his feet and lower legs. The injuries caused the man to die after two weeks spent in hospital. In its investigation, the HSE found that the company had not provided its staff with training or instruction on the proper bath and shower procedures nor did it provide thermometers to its staff.