

## FFI Charges for up to one third of inspections

Between a quarter and a third of inspections carried out by the HSE since its cost-recovery scheme came into force in October last year found a material breach of health and safety law, resulting in a fee for intervention (FFI) on the duty-holders involved.

This was revealed by the regulator's head of field operations, David Ashton, in his presentation on the new scheme to delegates at the IOSH Conference on 26 February. The first run of invoices, which was initiated last month, has so far seen 1400 bills sent out to errant duty-holders, meaning, said Ashton, "the money is really coming in".

But he was keen to emphasise that FFI is not only – or even mainly – about the money. It has, he said, myriad other advantages for the improvement of health and safety management and compliance.

He explained: "The 35-per-cent cut to our budget announced in 2010 will take us up to the General Election in 2014, so resources are a significant element of the cost-recovery scheme. If we ask, what is best for our customers, the answer is: an adequately resourced regulator. Thanks to FFI, we should be able to start recruiting new inspectors soon."

Mr Ashton also highlighted what he called "the multiplying effect" of the scheme: "From the cases we take and the information we publish, companies realise that they really don't want to experience 'the knock' from the HSE, followed by a bill. I don't want to call it a deterrent – I see it as more of a spur to good behaviour, and this is a definite advantage of the scheme."

Briefly explaining how the scheme works, Mr Ashton said that for companies that comply with the law in all significant respects, the HSE's advice is free, while those who don't will be charged for its time to put things right.

He reassured delegates: "We won't go looking for breaches, easy targets, or deep pockets. And there are no financial targets for inspectors. We won't change what we do, which is look at sites, see what's wrong, assess the significance of that and act accordingly. If there is a material breach, it will trigger a bill for our time."

The FFI procedure, once it has been triggered by determining a material breach – which, Mr Ashton emphasised several times, is clearly explained in the myriad guidance on FFI available on the HSE's website – works as follows.

The company will get a formal notice of contravention, which will include details of what is wrong (i.e the contravention itself), what action is required, and information about FFI. This covers the entirety of the inspection process and the time necessary afterwards to report on that work – all of which is charged at £124 per hour.

Mr Ashton explained: "FFI may apply where an enforcement notice or prosecution is not appropriate, so they are not triggers for FFI. But FFI almost always applies where formal enforcement action is taken in relation to a material breach."

Invoices are sent after two months, and the duty-holder has 30 days to pay. There is a formal disputes and queries mechanism, though Mr Ashton revealed that of the 1400 invoices sent so far, the number of appeals has been "in single figures".

He also touched on the impact of the scheme on his staff – the HSE field inspectors who must implement it on the front line. "It has been difficult," he said. "Some have said they didn't join the HSE to be a revenue collector but I ask them to turn around and look at what is best for our customers, and that is an adequately-resourced regulator."

He argued that FFI is actually a spur to consistency and efficiency and that the pressure it puts on HSE staff to do their job well is "good pressure". He added: "I worry about privatising regulation but I also worry about leaving it totally at the mercy of government funding. So, this system could be a happy medium – we will find out!"

Consistency of approach by individual inspectors was raised as a question by a delegate, to which Mr Ashton responded: "We follow the Enforcement Management Model, and our thought processes and internal guidance are all available to everyone to view, so there is total transparency. We also have a peer-review process, which, professionally, is extremely valuable. And there are 100-per-cent quality checks on all invoices we issue."

He concluded: "I think FFI is here to stay and, some years from now, we will be glad we did it."

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