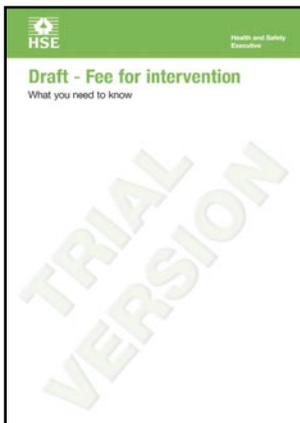


Draft - Fee for intervention

What you need to know



This is a web-friendly version of leaflet HSE48(draft), published 06/12

If you are breaking health and safety laws, HSE may recover its costs from you by charging a fee for the time and effort it spends on helping you to put the matter right, investigating and taking enforcement action.

What is fee for intervention (FFI)?

HSE's inspectors inspect work activities and investigate incidents and complaints. If, when visiting your business, they see material breaches of the law, you will have to pay a fee. The fee is based on the amount of time that the inspector has had to spend identifying the breach, helping you to put it right, investigating and taking enforcement action.

Why is FFI being introduced?

HSE and the government believe it is right that businesses that break health and safety laws should pay for HSE's time in putting matters right, investigating and taking enforcement action. Before FFI was introduced, this was paid for from the public purse.

FFI will also encourage businesses to comply in the first place or put matters right quickly when they don't. It will also discourage businesses who think that they can undercut their competitors by not complying with the law and putting people at risk.

Will FFI apply to me?

If you comply with the law you won't pay a fee.

FFI only applies to work carried out by HSE's inspectors so if your business is inspected for health and safety by another regulator, such as local authority environmental health officers, it will not apply.

FFI will apply to all businesses inspected by HSE, except for:

- self-employed people who don't put people at risk by their work;
- businesses that are already paying fees to HSE for the work through other arrangements; and
- businesses that deliberately work with certain biological agents.

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What is a material breach?

A material breach is where you have broken the law and the inspector judges this is serious enough for them to notify you in writing. This will either be a notification of contravention, an improvement or prohibition notice, or a prosecution.

Before deciding to notify you in writing, the inspector must apply the principles of HSE's Enforcement Policy Statement (www.hse.gov.uk/pubns/hse41.pdf) and Enforcement Management Model (www.hse.gov.uk/enforce/emm.pdf) to ensure their decision on the level of enforcement action is proportionate to the circumstances they see.

Examples of material breaches include not providing guards or effective safety devices to prevent access to dangerous parts of machinery, or materials containing asbestos in a poor or damaged condition resulting in the potential to release asbestos fibres.

When you receive a notification of contravention, it will make it clear which contraventions are material breaches where a fee is payable.

How much might it cost me?

The inspector will record the time they have spent identifying the material breach, helping you to put it right, investigating and taking enforcement action.

This will include time spent carrying out visits, including all the time on site during which the material breach was identified, writing letters, notices, reports, taking statements and getting specialist support for complex issues. This total amount of time will be multiplied by an hourly rate to give you the amount you must pay. For the current rate, visit www.hse.gov.uk/fee-for-intervention/index.htm.

How do I pay?

HSE will send out invoices every two months and you will have 30 days to pay. Details about how to pay will be included on the invoice.

How do I raise a query or dispute about the invoice?

If you have a question about an invoice, contact:

The FFI Team
Health and Safety Executive
Building 6
Redgrave Court
Bootle L20 7HS

Email and telephone contact details will be available when the scheme is implemented on 1 October 2012.

Have your invoice number ready.

If you disagree with the invoice, for example because you think that you were not in material breach of the law or the amount of time charged is not correct, you can query the invoice. If you disagree with HSE's reply to your query, you can raise a

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dispute. You will need to put down in writing why you disagree and send it to the address above within 20 days of the invoice date.

We will consider your dispute and write back to you with the outcome. If you are not satisfied with this response, you can write again setting out your reasons. A panel of HSE staff and an independent representative will consider your dispute and HSE will write back to you with the outcome.

You will have to pay for HSE's time spent handling your dispute. The amount to be paid will be the time taken to resolve your dispute multiplied by the FFI hourly rate (see www.hse.gov.uk/fee-for-intervention/index.htm). If your dispute is upheld, HSE will refund invoices or part invoices you have paid related to your upheld dispute.

Is it different if I want to appeal an improvement or prohibition notice?

Yes. The existing arrangements for making an appeal against an improvement or prohibition notice have not changed. Information on how to appeal an improvement or prohibition notice will be provided by the inspector when the notice is served. These appeals will still be heard by an employment tribunal, and the form included in leaflet ETS19 provided by the inspector should be sent to the employment tribunal setting out your grounds for appeal.

Concerns about invoices related to improvement and prohibition notices should be referred to the address provided above, and should not be sent to the employment tribunal.

Where can I get further information?

The HSE *Guidance on the application of fee for intervention* gives more detailed information about how FFI will work, what a material breach is, how inspectors make decisions about what action they will take when a business is breaking the law, and how queries and disputes are handled. This is available at www.hse.gov.uk/fee-for-intervention/index.htm. When the FFI scheme is implemented on 1 October 2012 the guidance will also be available to purchase in print from www.hse.gov.uk/pubns/books/hse47.htm.

For information about the specific requirements of a written notification from HSE, contact the HSE inspector who sent it. Their contact details will be provided with the notification.

This guidance complies with the eight golden rules of good guidance (see www.bis.gov.uk/policies/better-regulation/code-of-practice-on-guidance-on-regulation).

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Further information

For information about health and safety, or to report inconsistencies or inaccuracies in this guidance, visit www.hse.gov.uk/. You can view HSE guidance online and order priced publications from the website. HSE priced publications are also available from bookshops.

This leaflet is available online at www.hse.gov.uk/pubns/hse48.pdf.

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