

HSE launches fee for fault consultation

The HSE has opened a three month consultation on its proposals for recovering costs from duty holders that flout health and safety laws.

The government and HSE have already agreed the underlying principle, and the changes could apply from as early as April 2012.

"The government has agreed that it is right that those who break the law should pay their fair share of the costs to put things right - and not the public purse," said Gordon MacDonald, the HSE's programme director.

"These proposals provide a further incentive for people to operate within the law, levelling the playing field between those who comply and those who don't. Compliant firms will not pay a penny in intervention fees."

Under the plans, the HSE will recover costs when duty holders are, in an **inspector's opinion**, in "material breach" of the law.

This applies where the duty holder has breached the law and a requirement to rectify the breach is formally made in writing through improvement and prohibition notices, electronic mail or letter.

Fees would be charged up to the point where the HSE's intervention in supporting a business to correct the breach is complete.

Duty holders that are complying with the law or are in "technical breach" — where no formal intervention is necessary will not pay anything.

The HSE will recover costs at current estimates of **£133 per hour**, as well as passing on any costs of additional specialist support it requires during the intervention.

"HSE already recovers its costs in a range of industries and we have considerable experience of making these schemes work," said MacDonald.



Wall-collapse director to face manslaughter charge

A director of a construction firm has been accused of causing, through gross negligence, the death of a child who was killed when a wall he designed collapsed on her.

Three-year-old Meg Burgess was killed when a wall designed by George Collier and constructed by his company, Parcol Developments Limited, collapsed on to a public footpath in the Welsh coastal resort of Prestatyn, where she was walking with her mother.

Given Mr Collier's direct role in the incident, which occurred on 26 July 2008, the Crown Prosecution Service (CPS) has decided that he should be charged with gross-negligence manslaughter.

Parcol Developments, which has ceased trading, has been charged with an offence under section 3 of the HSWA, but escaped a charge of corporate manslaughter because the CPS did not judge it to be in the public interest to prosecute the firm for such an offence.

Rosemary Ainslie, reviewing lawyer for the CPS Special Crime and Counter Terrorism Division, said: "After considering reports from experts on construction standards and advice from counsel, I have decided that George Collier should be charged with gross-negligence manslaughter for his role in designing and constructing the wall that collapsed."

She added: "I did consider whether Parcol Developments should also be charged with corporate manslaughter. There is sufficient evidence to prosecute the company for this offence, but it would not be in the public interest to do so. The company had only two directors and Mr Collier was the only one directly involved in this incident. The charge against him is sufficiently serious to address the alleged offending." A spokesperson for the CPS confirmed that "there would be nothing to gain" from prosecuting a now defunct small company for corporate manslaughter when the person "directly responsible" is facing a charge of gross-negligence manslaughter.

Death trap' landlord ordered to pay £42,000 for fire safety breaches

A landlord has been ordered to pay a total of **£42,250** for serious safety failings at his properties.

Mohammed Javaid pleaded guilty to 20 safety offences at Manchester Magistrates Court on 6 July.

He was fined £33,750 and ordered to pay £8,500 in court costs. Out of the offences, 17 were for contraventions of housing law, while three were breaches of the Fire Safety Order.

Officers found that there was a failure to carry out a fire risk assessment. They also found that there had been a failure to provide a suitable alarm as well as fire door maintenance in communal areas.

Out of 16 flats that Mr Javaid owned, authorities took action over six. City council officers visited the flats, two of which were unoccupied, last August, and found problems including dangerous electrical wiring, a missing fire door and cables dangling from the ceiling where smoke alarms should have been.

In one property, there were no working lights in the basement and a tenant said she had to regularly visit the cellar, walking past live electric cables at shoulder height, to flick fuses back on.

The property was described to be in such bad condition that the council served an emergency prohibition order immediately.

Mr Javaid was then expected to close the premises and arrange new accommodation for his tenants. Instead, he kept the flats open and even moved more tenants into them.

The council also served notices insisting Mr Javaid carry out improvements to each of the properties, which were in three buildings, but according to officials, 'he still has not carried out much of this work'.

Worker seriously hurt in fall from inadequately protected fragile roof

A self-employed roofer on his **first day** on a site in Rotherham fell six metres to the ground through a fragile roof because a safe system of work was not implemented.

Michael Hawkins, 23, had been sub-contracted by Mechanical Solutions Ltd, of Mansfield, to help steel-clad the asbestos cement roof a large industrial building at Cotes Park Lane, Somercotes, Derbyshire.

The HSE investigation into the incident, which found part of the roof was only single thickness and therefore considerably weaker in some areas than others, yet the company failed to identify how fragile it was. The single-skin section was being used to store materials and it was while he was retrieving items from this area that Mr Hawkins fell.

He underwent six operations in just six months, including a large skin graft to his back and has been unable to return to work since.

Derby magistrates, sitting on 3 August, heard that Mechanical Solutions Ltd had failed to ensure the work was properly planned, appropriately supervised, or carried out in a safe manner. Its own method statement stated that harnesses were to be used near unprotected edges; however, no provision had been made for use of either in the single-thickness area, where the incident occurred, or the adjacent unguarded roof edge.

The method statement also stated all skylights and openings must be protected, but no evidence of this was found.

Guard rails for access boards

used to move about the main

asbestos-cement roof were

either missing or incomplete.

There was also no safety

protection underneath, such as

netting, to prevent workers

from falling through the roof

into the factory below. The HSE

served a Prohibition Notice

after the incident preventing a

return to work on, or near the

fragile roof until a safe system was in place to prevent another fall.

Mechanical Solutions Ltd, of Acorn Business Park, Commercial Gate, Mansfield, pleaded guilty to breaching reg.4(1) of the Work at Height Regulations 2005. The company was fined **£10,000** and ordered to pay full costs of **£5366**.

Speaking after the hearing, HSE inspector Carol Southerd said: "This was not an isolated lapse. Work had been taking place on the roof for weeks before the incident happened. It is clear Mr Hawkins and other workers were able to enter freely on to an inadequately protected area of a hazardous fragile roof. They were exposed to significant risk of serious or fatal injury.



Two companies and contractor fined for releasing asbestos at Birmingham office

Two Worcestershire companies and a contractor from Hall Green have been prosecuted for releasing asbestos fibres during an office refurbishment project in Birmingham city centre.

Inspectors from the Health and Safety Executive (HSE) uncovered a series of failings during the refurbishment of 114-116 Colmore Row, work that included upgrading a lift containing asbestos insulating board.

Birmingham Magistrates' Court heard how building owners Evanacre Colmore Row Ltd and project managers Marchmont Consulting hired builder Roland Morewood to carry out work over the weekend of 29 January 2010.

When lift engineers arrived, they found pieces of asbestos insulating board spread around the lift shaft area and refused to carry on working.

HSE inspectors stopped all workers from going into the building until it had been decontaminated. Air tests taken on several floors of the premises revealed significantly high levels of asbestos fibres, which were also found in several vacuum cleaners.

Asbestos insulating board was found stored in Roland Morewood's van, which itself was heavily contaminated with raised levels of asbestos fibres in the air. By law it should have been disposed of by a licensed contractor.

Speaking after the hearing, HSE principal inspector Richard Lockwood said:

"Asbestos is the **biggest** cause of occupational deaths in the UK, with an estimated 4,000 people dying every year from related diseases such as mesothelioma and lung cancer." Evanacre Colmore Row had an asbestos survey which clearly showed that asbestos was present in the lift. Marchmont Consulting, which has expertise in building work, should have known how to deal with asbestos and materials containing its fibres in refurbishment projects. "These companies decided not to use a licensed contractor to remove the asbestos insulating board but to get the work done over a weekend by an unlicensed contractor for a tenth of the cost. "It is against the law for anyone to remove asbestos insulating board without a licence. Roland Morewood should never have carried out the work and did not take enough precautions to prevent the spread of asbestos fibres. "Asbestos fibres were found to be at significant levels and if the alarm had not been raised, it is likely that people working on the refurbishment and office workers would have been breathing these fibres for some time."

Evanacre Colmore Row Ltd, of Cottonfields New Road, Cutnall Green, Droitwich, pleaded guilty today to breaching Regulations 11(1)(a) and 16 of the Control of Asbestos Regulations 2006 and was fined **£7,000** and ordered to pay **£1,500** costs.

Marchmont Consulting Ltd, of Kidderminster Road, Droitwich, pleaded guilty to breaching Regulations 11(1)(a) and 16 of the Control of Asbestos Regulations 2006 and was fined **£7,000** and ordered to pay **£1,500** costs.

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Ladder Exchange kicks off again

Ladder Exchange is back to help remove more dodgy ladders from Britain's workplaces. Over 8,000 dodgy ladders have been removed from the workplace since its launch. This years initiative will run from 1st September to 30th November.



More information you can find at <http://www.hse.gov.uk/falls/ladderexchange.htm>