



## Health & Safety Executive Update for Newcastle Construction Safety Group 2020



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WITH** 

# Agenda

- HSE Construction Division Plan of Work
- What to Expect from HSE
- Health Inspection Initiatives
- Enforcement Expectations
- Case Studies



# HSE Construction Division Plan of Work

- Lead and engage with others to improve workplace health and safety
- Provide an effective regulatory framework
- Secure effective management and control of risk
- Reduce the likelihood of low-frequency, high impact catastrophic incidents
- Sustaining regulatory excellence
- Investing in people and capability
- Driving operational efficiency and effectiveness
- Growing our commercial and externally funded activities



# What to Expect from HSE

- All HSE Inspectors carry a warrant. Section 20 of HSWA 1974 details the powers of inspectors:
  - To enter any premises at any time if we have reason to believe it is necessary
  - To be accompanied by a constable
  - To enter the premises with any other authorised HSE member of staff and relevant equipment
  - To make and examination and investigation as necessary
  - To direct anything within, or an entire premises, to be left undisturbed
  - To take measurements and photographs as necessary
  - To take samples, articles or substances
  - To have articles and substances dismantled and subjected to any process or testing
  - To take possession of any article or substance
  - To require any person to give information and sign a declaration of truth
  - To require the production of, inspect and take copies of books or documents
  - To require any person to afford facilities and assistance in the exercise of any of the above powers
  - “any other power which is necessary for the purpose mentioned in subsection (1)”



# What to Expect from HSE

- Pro-Active Inspections
  - Notified licensed asbestos work
  - Two national campaigns targeted at the prevention of occupational disease
  - F10 notifications
- Concerns
  - Risk-led inspections in response to notified red concerns
- Investigations
  - Risk-led inspection in response to RIDDOR investigations



# Health Inspection Initiatives

- HSE Commitment to 2 national health initiatives per work year:
  - Current focus - Occupational Lung Disease
  - Future focus - Musculoskeletal Disorders  
Work Related Stress
- Illness:
  - 3,000 workers in construction per year suffer breathing and lung problems they believe were caused or made worse by their work.
- Deaths:
  - For every worker killed on site approximately 100 die from ill health due to past exposure; particularly asbestos and silica.



# Health Inspection Initiatives

- National campaign.
- FOD Inspectors included in campaign.
- No site excluded.
  - Sites identified where at least one significant respiratory risk is likely
  - F10 notifications
  - Local knowledge
- Main focus of inspections under the health inspection initiative is respiratory risks:
  - Asbestos (not licensed contractors)
  - Dusts
  - Other matters of evident concern
  - Welfare



# Health Inspection Initiatives

- 2019 Campaign non-compliance themes:
  - Asbestos refurbishment and demolition survey not undertaken or not available
  - Asbestos awareness training not undertaken
  - Water suppression during silica cutting either not available or inadequate
  - Lack of respiratory protective equipment
  - Unsuitable or inadequate respiratory protective equipment
  - Lack of face fit testing
  - Wood cutting without extraction or ineffective extraction
  - No welfare facilities or inadequate welfare facilities



# Health Inspection Initiatives

- 2019 Campaign Material Breach rates:
  - Significantly higher with smaller dutyholders
  - Marginally higher on smaller sites
  - Highest in domestic refurbishment
  - Lowest in new build commercial
- 2019 Campaign Prohibition Notices - 236:
  - Health - 39 (asbestos/respiratory crystalline silica)
  - Management - 6
  - Safety - 191
- 2019 Campaign Improvement Notices - 222:
  - Health - 59
  - Management - 49
  - Safety - 65
  - Welfare - 49



# Enforcement Expectations

- After an inspection or an investigation HSE may:
  - Offer advice (either verbal or in writing)
  - Issue a notification of contravention
  - Issue an improvement notice
  - Issue a prohibition notice
  - Prosecute for breaching health and safety legislation
- Fee for Intervention
  - £154/hr (or part thereof)
  - The fee will include the costs for the time of the entire original visit. It may also include the inspector's time:
    - at your business or workplace;
    - preparing reports;
    - getting specialist advice;
    - talking to you after the visit; and
    - talking to your workers.



# Enforcement Expectations

- Disagreeing with our decision:
  - If you don't agree with what we've decided when we write to you, you may be able to challenge our decision. We will always tell you how you can challenge one of our decisions. Please contact your inspector or their manager before you start any formal dispute against one of our decisions. They may be able to look at the decision again.
- Disagreeing with your invoice:
  - If you disagree with anything on your invoice, you can query it with the FFI invoice dispute team. It costs nothing to query an invoice. If you don't agree with our response to your query, you can dispute it with the FFI invoice dispute team. This must be done in writing. A disputes panel, completely independent of HSE, will consider your dispute and write back to you informing you of the outcome. You can find information on how to raise a query or dispute an FFI invoice at: [www.hse.gov.uk/fee-for-intervention](http://www.hse.gov.uk/fee-for-intervention).



# Enforcement Expectations

Examples of possible Prohibition Notices:

- **Asbestos:**
  - Failure to carry out a refurbishment and demolition survey
- **Silica:**
  - Failure to adequately control exposure
- **Manual Handling:**
  - Failure to take steps to reduce the risk of injury
- **Noise:**
  - Failure to provide hearing protection to employees exposed above the upper exposure action value.
- **Vibration:**
  - Failure to ensure exposure is not above the exposure limit value.



# Enforcement Expectations

Examples of possible Improvement Notices:

- Asbestos:
  - Failure to provide adequate information, instruction and training
- Silica:
  - Failure to adequately control exposure
- Welfare:
  - Failure to provide welfare facilities
  - Failure to provide hot/warm and cold running water
  - Failure to provide soap and towels
  - Failure to provide rest facilities



# Case Studies



- Dutyholder issued with multiple improvement notices.
- Complied with fire safety and respiratory risks, but failed to comply with improvement notice for welfare.
  - No hot or warm running water
- Failure to comply within notice period.
- Pleaded guilty to a breach of Section 21 of the Health and Safety at Work etc. Act 1974 and regulation 13(4) of the Construction (Design and Management) Regulations 2015.
  - Fined £8,000
  - Ordered to pay costs of £1814.90

# Case Studies

- Two operatives using a powered tool to cut flagstones with no water suppression and no respiratory protective equipment.
- Prohibition notice and improvement notice served.
- No evidence of compliance with the improvement notice and a second job undertaken with no adequate control measures in place.
- The company pleaded guilty to a breach of regulation 7(1) Of the Control of Substances Hazardous to Health Regulations 2002 and admitted not complying with an improvement notice
  - Fined £20,000
  - Ordered to pay costs of £3,000



# Case Studies

- Client and contractor fined after exposing workers to asbestos.
- No appropriate asbestos refurbishment and demolition survey undertaken.
- Several areas containing asbestos-containing materials disturbed during refurbishment work.
- The client pleaded guilty to a breach of Section 3(1) of the Health and Safety at Work etc. Act 1974:
  - Fined £16,000
  - Ordered to pay costs of £1,246.90
- The contractor pleaded guilty to a breach of regulation 5 of the Control of Asbestos Regulations 2012:
  - Fined £20,000
  - Ordered to pay costs of £1,084.59



# In Conclusion

- We believe everyone has the right to come home safe and well from their job.
- We target industries with the greatest hazards, and sectors with the worst risk management record.
- We hold employers to account for their failures, get answers for victims and make workplaces safer.
- Everyone has a part to play - employers, unions, trade associations, professional bodies, academics and others.



Thank You



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WITH** 