

To: London Health & Safety Forum

Date: 12th June 2012

Subject: Legal Update and New Legislation

1. **Minister orders second Lofstedt Report**

"Professor Ragnar Lofstedt is to draft a follow-up to last November's Reclaiming Health and Safety for All"

Professor Lofstedt has been asked by employment minister Chris Grayling to prepare a follow-up to "mini report" in the autumn for publication by the end of January 2013 assessing progress in making his proposed changes.

"I have been asked on whether I am satisfied with the way the government is implementing my 26 recommendations" he told HSW "And if I think anything else should be done"

The recommendations from last year's review, almost all of which were accepted by Grayling, included exempting some self employed people from compliance with safety law, a review of core safety law to see if some common requirements can be consolidated and simplification of HSE's 53 approved codes of practice which guide duty holders on how to meet regulatory requirements.

He said the team of researchers at the Department of Work and Pensions (DWP) who helped with the review will reassemble later in the year to help him evaluate progress on the recommendations. The challenge panel made up of representatives of unions business and the major political parties, which advised him on last year's review will probably reconvene for one meeting.

The result will be a 10 page summary of progress submitted to the minister in January and then made public.

The first report suggested varying deadlines for the proposed changes such as April 2013 for the HSE review the Work at Height Regulations and April 2015 to examine regulations limited to particular industrial sectors such as construction, to see if there is scope for consolidating them.

The suggested timescales were later shortened by the prime minister, who said in an article in a London news paper in January that he asked for most of the recommendations to be implemented by the end of this year.

Lofstedt said he had not seen a proposed timetable from the HSE or DWP but said he understood ministers were keeping the up the pressure to meet the end of year deadline. It is getting "tighter and tighter" he said

2. Failure to Complete Paperwork leads to Fine

The owner of a Bedfordshire Farm has been prosecuted for failing to complete legally required documentation in relation to safe working near overhead power cables. Bedford Magistrate's Court heard that on 23rd June 2010 a lorry depositing compost into a field made contact with a live 33kv overhead power line.

No one was injured, but a subsequent investigation by the Health and Safety Executive (HSE) found the company had neglected to complete essential, legal documentation relating to the line. This is required to inform both employees and regulators of the existence of the hazard so that appropriate steps and controls can be put in place to keep workers safe.

The company involved admitted breaching Regulation 3(1) of the Management of Health and Safety at Work Regulations 1999 in relation to the offence, and was fined £1,500 and ordered to pay £500 costs.

After the hearing the HSE Inspector said, " It is an employer's duty to complete all legally required documentation to ensure that necessary steps to protect workers from risk are communicated formally to all relevant parties, including the workers themselves.

3. Wakefield Landlord in Court for flouting Gas Safety

A Wakefield landlord has been fined after ignoring repeated warnings to have gas appliances at his rented property checked for safety.

The landlord was contacted by both Wakefield Council and the Health and Safety Executive (HSE) instructing him to employ a registered gas engineer to undertake tests at a property belonging to him.

The landlord failed to respond on numerous occasions and when HSE issued an improvement notice giving him a deadline to have the work done he ignored that too.

The matter was referred to court where the landlord was fined £450 and ordered to pay £1,000 costs.

The HSE Inspector dealing with the case said after the hearing:

"This was a case of wilful disregard for the safety of the tenant, who had been left in a vulnerable and potentially dangerous situation. The landlord had numerous opportunities to call in a professional gas engineer to perform these vital safety checks and each time he chose not to.

It was a clear case of putting profit above a person's safety.

Every year around 20 people die from carbon monoxide poisoning because of faulty gas appliances. Landlords must ensure that flues and appliances are serviced and annual checks carried out by a gas safe registered engineer. A record of those checks must be provided to the tenant. The HSE said that it will not hesitate to prosecute those who flout the rules and risk their tenant's lives.

The Chief Executive from the Gas Safety Register; said:

It is important that landlords are aware of their legal responsibilities when it comes to gas appliances in their rental properties-appliances must be safety checked once a year by a suitably qualified gas safety registered engineer who will produce a gas safety record for the landlord.

4 Outbreak of Legionella in South West Edinburgh

NHS Lothian is now investigating (17) confirmed cases and (15) suspected cases of Legionnaire's disease.

One patient, a man in his 50's with underlying health conditions, has died while being treated at the Royal Infirmary of Edinburgh.

Thirteen men and two women aged between 33 and 74 are in a critical condition with the disease and are being treated in intensive care in hospitals in Lothian. One man has recovered and has been discharged.

Although, unconfirmed 16 other cases, 10 men and 5 women are also being investigated. All of these patients are being treated in hospitals in Lothian.

The majority of confirmed cases are linked geographically to a certain part of the city.

The source of the outbreak continues to be investigated by officers from City of Edinburgh Council's Environmental Health and Scientific Service's and the Health and Safety Executive.

Industrial cooling towers have been identified as a potential source of the infection and the cooling systems at four facilities in the area have been subjected to an additional chemical treatment. Further inspections of these facilities will be carried out by the Environmental Health Service and the HSE over the coming days to ensure control measures continue to be effective.

Samples have been taken from these four facilities but, legionella is a difficult bacteria to culture and it may be up to ten days before results of the samples taken are available.

Other sources of contamination have not been ruled out

5 New Global Work Group for Health and Safety Sustainability

The Global Reporting Initiative (GRI)- a network-based organization pioneering the world's most widely-used method for reporting sustainability -is establishing a new and influential occupational health and safety (OHS) Working Group.

The group will examine performance indicators for health and safety and help ensure it plays an improved role in rating how employers perform on ethical business practices. It will be part of an overall system of measuring how well organizations look after the environment and communities in which they operate, as well as how they treat their employees.

A spokesperson for IOSH was reported as saying that this is fantastic news which we wholeheartedly welcome as a first and vital step towards raising OHS reporting standards and performance worldwide. We have come from a position where there was insufficient interest in improving health and safety indicators, to a point where GRI's survey found "reporters" rated it in the top four sustainability topics".

But with an estimated 2.3 million people worldwide killed each year by workplace accidents and diseases, this is just the very start.

The announcement of the OHS working group really puts health and safety on the map in terms of the sustainability agenda. IOSH hope that by including health and safety performance measurement on the GRI metrics this will raise standards across the globe, pushing towards a vision of a world that is safe, healthy and sustainable.

IOSH are now calling upon members to give their views during a second, public comment period from August to November. IOSH members wishing to be considered for the GRI OHS Working Group need to apply by Thursday 7 June 2012. For more information , visit the GRI website.

Legislative Updates

1. Fee for Intervention

Due to technical reasons the FFI has been delayed and will likely be launched in October 2012.

- This will continue as proposed and the costs are likely to be for low level intervention between £0-1500 if there is more specialist equipment/resources required then it will be considerably higher.

Further guidance will be published by the HSE

2. Loftstead Review

The HSE are carrying out a number of projects to address the mis-interpretation and application of the law which has caused bad publicity in the past by:

- Building in online RA's for lower level risks for example offices etc.
- Online guidance for businesses
- Change to the RIDDOR (Effective April 06 2012)
- Comprehensive review of all guidance
- Review of all the ACoPs of which the first phase is due to be completed June 2012.

3. HSE Response to the Media stories on Bunting

A recent case of a Council saying no paper bunting should be hung from lamp post unless they have been stress tested is overkill (Burnham-on-Sea).

- Councils should be mindful of this especially with the Olympics approaching. Yes there may be a case that where banners are to be displayed along the streets that stress testing will be required, it is clear there needs to be a link formed with your street lighting teams
- Issues are more around the need to focus on height restrictions, traffic lighting systems and signage to avoid obscuring vision of drivers.

4. Electrical Safety

Revised document INDG236 - Maintaining portable electrical equipment in low-risk environments

- It explains simple and sensible precautions to be taken on areas such as offices, shops and some areas of residential homes
- It has now been updated to include hotels which were previously included in a separated document (INDG237)

Another revised electrical document is INDG231 - Electrical safety and you: a brief guide

- Main hazards of working with electric
- How to carry out RA's
- How to reduce risks