



Ask the Ellis Whittam Experts

FEE FOR INTERVENTION (FFI)

A closer look at the Health and Safety Executive's controversial cost recovery scheme

Nick Wilson, Director of Health & Safety Services at Ellis Whittam, answers some of the most frequently asked questions.



What is Fee For Intervention?

Fee For Intervention (FFI) is a 'cost recovery scheme' operated by the Health and Safety Executive (HSE).

Under *The Health and Safety (Fees) Regulations 2012*, workplaces in 'material breach' of health and safety laws are liable for recovery of the HSE's costs for any inspection, investigation and enforcement action that is undertaken.

A 'material breach' occurs when the HSE issues a notification of contravention, an improvement or prohibition notice, or a prosecution.

Could I be hit by FFI?

It depends on whether or not you are in 'material breach' and if the sector you operate in falls under the HSE inspection regime. Those which the HSE are responsible for include: factories, mines, schools, fairgrounds, nursing homes, government premises, dentists and doctors' surgeries.

Premises which are inspected by Local Authorities and other enforcement agencies are not currently subject to FFI although an independent review of FFI in 2014 recommended the scheme should be extended.

How much are the charges?

The HSE charge £124 per hour. Here are some example costs provided by the HSE:

- Inspection resulting in an email or letter: £750
- Inspection resulting in a notice being issued: £1,500
- Investigation taking 4 days: £4,000
- Full investigation: could be tens of thousands

Inevitably, charges are likely to be higher for multiple contraventions.

FFI charges are on top of HSE fines and associated legal costs.

What's the purpose of FFI?

The government says that the HSE, which is funded by the tax payer, should recover its costs from businesses who break the law and cause the HSE to incur costs.

It's also worth adding that the HSE has had its budget cut by 35% in the last few years, so FFI charges which go to the HSE and the Treasury obviously help alleviate the situation!



For what sort of ‘material breaches’ are FFI charges imposed?

HSE identifies 4 general areas to illustrate what might trigger FFI charges:

- **Health risks** – exposure to harmful substances such as dust, fumes and chemicals or energy such as noise or vibration
- **Safety risks** – where potential effects are immediate due to traumatic injury, eg. contact with moving machinery, falls from height, contact with vehicles
- **Welfare breaches** – requirements that are part of the controls required for health risks, or a basic right of people in a modern society
- **Management of health and safety risks** – capability to manage risks to a sustainable, acceptable level

Is the HSE getting more stringent?

Yes. Although fewer inspections are being carried out, the number of enforcement notices appears to be on an upward trend. In 2013/14 (the latest full year figures available), the HSE issued 10,119 notices, 15% up on the previous year. By way of example, one in three construction sites visited generates an FFI invoice.



Lawrence, Health & Safety Consultant

How do I avoid FFI?

You need to ensure you are compliant with legislation. Typically, Ellis Whittam’s Health & Safety Consultants find about 50 transgressions on a first visit (it’s not unheard of to find more than a hundred!), of which about half a dozen would attract FFI.

In short, the safest approach is to follow Ellis Whittam’s advice and comply with the law. Not only does a robust health and safety regime mean you avoid prosecution and FFI, you also benefit from a safer and more productive workplace.

Does EW’s Legal Expenses Insurance cover FFI?

Yes. If you’ve been with EW for six months, your General Risk Assessment is completed and you have acted on our recommendations, the Legal Expenses Insurance (LEI) will cover up to £5,000 of FFI charges.

Additionally, in the event of prosecution, LEI supports the cost of appealing against notices and representing you in court. The combination of support from your local Ellis Whittam Health & Safety Consultant and the cover of LEI offers total protection.

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Who are the HSE?

The Health and Safety Executive (HSE) is a government inspection body whose purpose is to reduce death and injury across Britain’s workplaces through offering guidance and operating an inspection regime. They also aim to level the playing field for businesses, by ensuring that businesses do not gain competitive advantage through non-compliance.

