



## Judge, Jury and Chancellor of the Exchequer...?

The Government is currently consulting on a scheme to implement cost recovery by the HSE and how it aims to implement the recovery. It is already the Government's policy to extend cost recovery, so the consultation focuses on how it will work and not on whether it should be done. The consultation is open until 14 October 2011 and can be viewed at [www.hse.gov.uk/consult/condocs/cd235.htm](http://www.hse.gov.uk/consult/condocs/cd235.htm).

### What's involved?

From April 2012 the Government hopes to have the Health and Safety Executive (HSE) recovering all of the costs it incurs following action taken to help businesses comply where they are breaking health and safety law. Those who comply with the law will not pay a penny as a result of an HSE inspection and there will be no fees in relation to purely technical breaches. For the moment local authorities (LAs) are considered out of scope of 'fee for intervention', leaving the possibility for 'Fee Interventions' for LA enforced health and safety, food safety and fire safety to be tackled in the future.

Ministers want to introduce its 'Fee for Intervention' for all costs of an inspection or investigation where a business is in material breach of the law. They believe it is fair and reasonable that businesses that are found to have broken health and safety laws should pay the costs incurred by HSE in helping them to put matters right rather than the public purse.

They also envisage 'Fee for intervention' will also help create a level playing field for business. Employers who cut corners and put the workers and the public at risk should not enjoy a competitive advantage over those who invest in doing the right thing. 'Fee for intervention' may act as an incentive to employers who do not meet basic health and safety standards.

### When will they charge?

The proposals are to recover costs from interventions at which a material breach is found. A material breach is where, in the opinion of an HSE inspector, there has been a breach of health and safety law that requires HSE's intervention in supporting the business in putting matters right. The example they give for this at its most simplistic level is, failure to properly display the health and safety law poster in an otherwise well run firm would normally be dealt with by verbal advice, and costs would not be recovered. However, inadequate guarding of machinery, which could result in significant injury to employees, would result in costs being recovered for this breach and also any additional breaches.

### How much will this cost?

The proposed current estimate for 'fee for intervention' is £133 per hour and will be exempt from VAT, however where additional specialist support is required to assist with the HSE's activities, then the dutyholder will be responsible for paying the costs of this specialist support which is



# Park City

HUMAN RESOURCES  
HEALTH & SAFETY  
TRAINING & DEVELOPMENT

likely to attract VAT at the full rate. Business will be expected to pay all HSE invoices within 30 days. However to assist them with cash flow and accounting arrangements, it is expected that invoices will be issued on a monthly basis as costs are incurred rather than collating all costs into one invoice issued when all work has been completed. If businesses do not pay, normal credit control action will then be taken, i.e. a series of reminders, a final reminder and then recovery through the courts.

## **The Right of Appeal**

The HSE intends to implement a robust queries and disputes resolution procedure that is fair and transparent. Queries may arise from businesses regarding information in the invoice. If the query remains unresolved it will become a dispute. To focus on assisting business with genuine disputes, HSE proposes to recover the costs of handling disputes where the dispute is not upheld. It is proposed that this is based on the hourly rate relevant to the intervention multiplied by the time taken to resolve the dispute.