

## Fee for Intervention (FFI)

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**CATEGORY:**  
ARTICLE

The Fee for Intervention scheme (FFI) was implemented on 1 October 2012. The scheme will punish those who break health and safety laws by encouraging the HSE to recover costs from the offending businesses.

A duty will be placed on the HSE to recover costs from businesses for the time and effort the HSE spend in rectifying health and safety breaches. It is hoped that the FFI will encourage businesses to resolve any breaches that have occurred quickly and efficiently. Ultimately the aim is to discourage business from failing their health and safety obligations.

The additional benefit of FFI is that it eases the pressure on the public purse.

Who does the FFI apply to?

The FFI applies to:

- Public and limited companies
- General, limited and limited liability partnerships
- Crown and public bodies

Broadly, the FFI applies to any duty holder of which the HSE is the enforcing authority. Charities are not exempt.

What constitutes a breach?

Costs may be recovered by the HSE if there is a breach that is sufficiently severe that the HSE is required to inform the duty holder in writing. Such a breach is considered a 'material breach'. The decision to inform the duty holder in writing is taken by an HSE inspector.

What are the costs that can be recovered?

The costs take the form of a fee that is charged against the business in material breach. At present the rate of the fee is £124 an hour, and the total costs incurred will be calculated by the number of hours taken for the HSE to complete its regulatory work. The HSE's regulatory work includes identifying and resolving the material breach.

The hourly rate may change in the future.

In what situations could FFI arise?

- Health risks – such as exposure to harmful substances e.g. asbestos
- Safety risks – such as injuries caused by moving machinery or falls from height
- Failure to manage health and safety risks to a sustainable level

How do I appeal?

Businesses may appeal if they disagree that they were in material breach of the law, or if they disagree with the amount of time charged by the HSE.

An appeal must be made in writing and sent to the HSE within 20 days of receiving the invoice. The HSE will consider the appeal and respond in writing with the outcome.

If a business is not satisfied with the response from the HSE it is possible to write once again setting out the reasons for the disagreement. The second letter will be considered by a panel of HSE staff and also an independent representative. The HSE will again respond with the outcome of the appeal.

Businesses must pay for the time spent by the HSE in considering the appeal which is calculated using the FFI hourly rate. If the appeal is successful the HSE will refund the invoices or part of the invoices accordingly.

Is the appeal process sufficiently independent?

The first stage of the appeal process is considered by the HSE. This raised concerns over the lack of an independent review awarded to the appellant business. In order to resolve this concern, the second stage of the appeal process includes an external business representative, as well as a panel of HSE senior staff.

It appears that there is still scope for greater independence within the appeal procedure.

What should I do now?

It is a requirement that Health and Safety policies and procedures be kept under regular review. If a business has not reviewed its policies and procedures for some time then it would make sense to do so promptly. Any gaps or failings can be corrected without having to pay the HSE for the privilege!