

NEWS FROM THE HR TEAM



Convicted for having CCTV



An employer has been prosecuted and fined for having CCTV. They were convicted of a criminal offence under the Data Protection Act 1998. There are many benefits to having CCTV but you must also follow the rules as set out by the Information Commissioner's Office.

There are certain things you must do. Firstly, you would have to follow the CCTV code of practice as set out by the Information Commissioner's Office. Next, an impact assessment must be carried out. Finally you must register your usage. A small employer ignored these requirements and as such has been prosecuted and fined.

The interesting thing in this case is that the Information Commissioner actually wrote to the employer on several occasions however the employer ignored these warnings.



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Reporting on Gender Pay Gap

Employers with 250 employees or more will now be required to publish gender pay gap information under The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017. These changes are expected to come into force on 6 April 2017 and employers will have 12 months from then to publish information. There are six calculations that an employer is required to publish and this includes pay and bonus payments to men and women.



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Changes to tax and childcare benefits



Employers may need to reconsider their benefit offerings, as tax savings through some salary-sacrifice schemes will be abolished from 6 April 2017. While the clampdown will limit the extent to which staff benefit from tax and national insurance, schemes related to pension savings (including pensions advice), childcare, cycle-to-work and ultra-low emission cars will not be affected.

The government has also set up a new tax-free childcare scheme to help working parents whose individual earnings are less than £100,000 per year. Parents will now be eligible to receive 20% (to a maximum of £2000 per child or £4000 if a child is disabled) of their annual childcare cost. This is expected to be in force from 2017, though it will be rolled out to families with the youngest children first.



National Living Wages and National Minimum Wage Changes

The rates from 1 April 2017 will be:

- National Living Wage will increase from £7.20 to £7.50 per hour for those aged 25 yrs and over
- National Minimum Wage will increase from £6.95 to £7.05 per hour for those aged between 21 and 24 yrs old
- National Minimum Wage will increase from £5.55 to £5.60 per hour for those aged between 18 and 20 yrs old
- For those aged between 16 and 17 years the rate will increase from £4.00 to £4.05 per hour
- For apprentices, the per hour rate will increase from £3.40 to £3.50 aged under 19 or 19 or over who are in the first year of apprenticeship.

Apprenticeships

From 6 April 2017, UK employers with an annual payroll of more than £3 million will be required to pay an apprenticeship levy. From 1 May 2017 there are also changes to the funding of apprenticeship trainings that will apply to all employers, irrespective of whether or not they pay levy.



NEWS FROM THE HEALTH & SAFETY TEAM



What Happens when Someone Complains about You to the HSE?

When the Health & Safety Executive receives a complaint it is most likely to come from an employee or a member of the public. These complaints can be lodged online, in writing or by phone. When the HSE receives a complaint, this is an outline of what the process would be and what you could expect.

Firstly, the HSE will check whether the complaint lies in its jurisdiction. For complaints that are not health and safety at work issues (such as fly tipping, environmental noise or garden rats etc.) the complainant will be directed elsewhere.

Another example: where a complaint is made about a slippery floor in a supermarket; this would be referred to the local authority - although this is clearly a health and safety hazard, the HSE is not the enforcing authority for shops.

If the person making the complaint is your employee, the HSE may well ask them whether they have already raised it with you. If the employee hasn't, the HSE is likely to ask them to do this first and then contact the HSE again later should no action be taken as a result.

The complaint will be assessed, and if appropriate, an inspector will be allocated to carry out an investigation.

The inspector will then visit the site (likely to be unannounced) and make enquiries.

The inspectors can then exercise any of their normal powers, such as the right to enter, see documents and records, take photos and interview witnesses.

Once, having looked at the evidence, Inspectors will weigh it up in the light of the relevant law and guidance, and decide whether the complaint is justified – if not, it's unlikely any further action will be taken.

However, if the complaint is found to be valid, inspectors will then have to decide what action to take and they can use any of the enforcement powers given to them by the Health and Safety at Work Act.

You may get verbal and/or written advice, or you could be served with an Improvement or Prohibition Notice (known as Enforcement Notices) or receive notice of the intention to prosecute. The inspector will consider the nature and extent of the risk and (if we're honest), how co-operative you are. At any stage, you are within your rights to ask the inspector 'what does that mean?' and 'what happens next?'

An Improvement Notice will quote a specific breach of the law and require you to take remedial action within a set period (at least 21 days). Agree with the inspector a period that's reasonable and realistic for you and that will allow you to complete the required work.

If the situation represents an 'imminent risk of serious personal injury' a Prohibition Notice is most likely to be issued. You will be asked to stop the specified activity until the situation has been rectified.

You have a right of appeal (up to 21 days) to the employment tribunal if you are given either of these notices.

Where the inspector finds a 'significant breach', serves a notice or starts legal proceedings you can expect to be charged £129 per hour for the inspector's time under the HSE's Fee for Intervention scheme.

The HSE is likely to give some feedback to the person who made the complaint on whether the complaint was investigated or not, what the outcome was and what action was taken (if any) as a result.

No-one likes to be complained about, but the best approach to take is 'if something's wrong, we'd like to put it right'. Be objective, co-operative and constructive and you're likely to get the best outcome. Don't expect the HSE to reveal who has complained.

Let your BBI Risk Solutions consultant know as soon as you are aware of the visit.



Health and Safety Executive FFI Update

Fee for intervention (FFI) is the Health and Safety Executive's (HSE) cost recovery scheme which was introduced on 1st October 2012. FFI was introduced because the HSE believes that any business breaking health and safety laws should be financially responsible for the HSE's time in putting matters right.

They now charge an hourly rate of £129 for their inspectors' time, however if further expert investigation is required this will be charged in addition (with no financial cap relating to these additional costs). The total amount to

be recovered will be based on the amount of time it takes HSE to identify and conclude its regulatory action in relation to the material breach (including associated office work) - this includes part hours.

Where businesses are not compliant with health and safety laws, the HSE may seek to recover its costs for inspection/investigation from them. The average cost of an invoice issued under FFI is now running in excess of £650.

Invoices will generally be sent to businesses every two months, within 30 working days of the end of each invoicing period. Invoices will be issued in January, March, May, July, September and November. The majority of invoices are for sums below £500, though companies can be issued with multiple invoices if the HSE investigation spans more than one invoice period.

In February/March 2016, 35% of invoices were for less than £200. One in three was for between £200 and £500. Ten invoices were issued for sums in excess of £10,000.

If the HSE inspect the workplace or is notified of a material breach of health and safety and the HSE decide the breach is sufficiently serious to inspect or write to you as a notification of contravention, issue an improvement/prohibition notice or a prosecution, it will record the time it has spent identifying the breach, helping you put it right, investigating and taking enforcement action. There is a limited "appeals" process and if unsuccessful, this could increase overall costs significantly.

Having a structured health and safety management plan at the heart of your organisation will help ensure compliance of the business with health and safety laws and minimise the likelihood of fines, penalties, etc for any breaches of health and safety legislation.

A framework for a realistic and proportionate health and safety management in a small/medium sized business should incorporate the following:

- Appoint a person responsible for health and safety. This can be an internal, suitably experienced person or an external professional, such as BBi Risk Solutions.
- Prepare a health and safety policy which meets current legal requirements and best practice, ensuring the policy is regularly reviewed so it adequately reflects the activities of the business.
- Prepare and regularly review risk assessments of all activities that may affect the health and safety of employees and visitors.
- Develop safe working practices where hazardous processes exist.
- Provide and record appropriate health and safety training for staff.
- Establish a system for recording and investigation of accidents and near misses.
- Carry out regular health and safety audits of the workplace, systems, procedures and documentation.