



## Don't get crushed by Health and Safety fines

In 2012 the **Health and Safety (Fees)** Regulations came into play. Since then firms have been invoiced with a staggering £21 million in fines or Fees For Intervention (FFIs). Construction and Demolition firms alone have been hit with £6m in fines.

### Do you really want to be fined because of the toilets?

Many of the reasons for FFIs are for pretty basic requirements like 'Inadequate welfare facilities' – or in other words things like the toilets not being fit for purpose.

**Schedule 2 of the CDM Regulations (2007)** states "Suitable and sufficient sanitary conveniences shall be provided or made available at readily accessible places." Failing to provide adequate welfare facilities for the number of people on site, unhygienic welfare facilities or faulty welfare facilities (e.g. no running water or hot and cold washing water) could all be highlighted as material breaches of this requirement.

So take a moment and consider this, one of the top 10 reasons for firms being fined is because of the toilets. A significant issue contributing towards those £21m in fines issued over the last few years is caused by something so basic, something that in the 21st Century we take for granted. We all expect our bathroom at home to function properly, so surely the same should be true for the toilets at work.

### The statistics are mind blowing

The HSE released figures in April 2015 showing the enormity of the problem faced by firms. Over 38,000 invoices have been raised hitting a similar number of companies. This means that nearly 70 companies are being fined every working day of the year.

What some people overlook is the fact that the fines aggregate up until the problem is rectified. This means that you really need to get on the case immediately, first to prevent the problem and second to remedy it quickly if you are fined. The fee is payable at an eye-watering rate of £124 per hour.

If that does not concern you enough then note that the total amount that will be recovered will be based on the total amount of time the HSE takes to identify and conclude its regulatory action. The costs can increase further if expert opinion is required as the hourly rate for each expert will need to be taken into account. So it really is easy to see how and why the fines ramp up quickly.

### So why not just pay the fine and move on?

Paying the fine may not be the end of the matter. Invoices will be issued every 2 months until the inspector is satisfied the breach has been remedied. So paying the fine does not mean there will not be further fines. Worse still, paying a fine could be used as evidence against you in future criminal prosecutions – effectively an admission of guilt.

### Where are the areas that Demolition firms can improve?

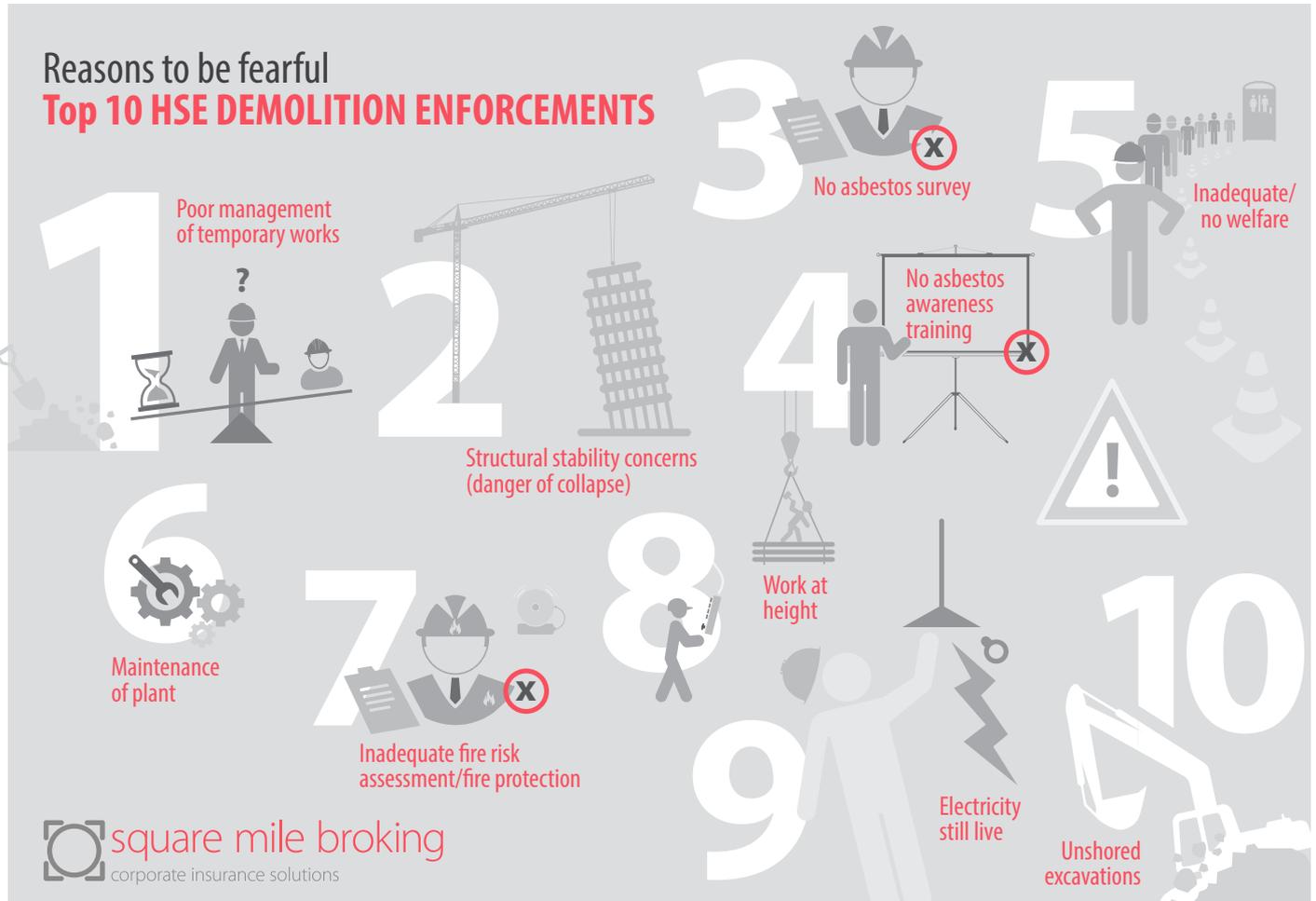
Hardest hit of all is the Construction sector which includes the Demolition Industry averaging over 500 fines per month and over £6 million in fines. This does make you wonder what we have all learned in the last 3 years and why we are not putting a stop to the underlying issues. After all, as the infographic below shows, many of the reasons should be easy to remedy with some simple procedures and processes.

### What can be done?

Maybe the first step the industry needs to take is to simply be aware of the main reasons why demolition companies are likely to fall foul of the regulations. By identifying the main reasons then it would make sense that it should be easier to mitigate against them.

### Asbestos is still causing deaths and leading to fines

When you consider the long-standing problem of asbestos not only does it feature twice in the top 10 reasons for fines, but more soberingly it claims around 4,500 deaths per year. It is the 'hidden killer' especially in the construction and demolition industries.



We all appreciate that drilling, sawing, cutting or demolishing may disturb asbestos materials and release deadly fibres. This is a key area that inspectors will check, and if you are putting people at risk from asbestos exposure you are liable to prosecution along with charges under the FFI scheme.

So, by coupling a robust survey process with a training programme two of the top risks can be mitigated in one hit. Find out if there could be asbestos containing materials present. Also, if the building was originally built before 2000, you need a survey. If it turns out asbestos containing materials are likely to be disturbed as part of the project, they need to be protected from disturbance, or removed in accordance to the [Control of Asbestos Regulations](#).

### Snakes in ladders

Falls from height are the biggest killer in the construction and demolition world accounting for the majority (51%) of fatal injuries, and a large proportion (29%) of major injuries. Unsafe scaffolds, lack of edge protection, poorly planned roof works and dangerous access methods are all elements of dangerous work at height that can lead to enforcement action, falls from height, and avoidable injuries and fatalities on site. The HSE has identified poorly erected scaffolding as one of the key faults.

Yet this problem can be avoided by ensuring that any work at height is properly planned, scaffolding is erected and checked, any working platforms are safe, suitable fall prevention and restraint equipment is used and that fragile materials and open edges have barriers or are covered over.



### Prevention is better than cure

It is surely good business sense and common sense to put the right risk management plans in place. The moral and corporate social responsibility demands are reason enough, never mind the effects on your business.

A recent cautionary tale from a [HSE press release](#) reinforces the importance of sound risk management and the moral duty to act properly. A building firm was found guilty of corporate manslaughter after an employee fell through a roof. Tragically the employee was killed. Then the firm in question was fined £200,000, the owner faced imprisonment and the business was forced to advertise what had happened in the local press and on their website. So it is clear that loss of life, fines, imprisonment and business reputation are all at stake.

Any good insurance broker should be able to advise you on risk management and assess the existing plans and arrangements. This will in turn help better protect you, your staff and the public – but also get improved terms and premiums from the insurance market. A guide detailing the Top 10 FFI exposures and how to prevent them is available to download [here](#).

Once all of the right measures are in place it is then worth assessing whether insurance should also be considered. At Square Mile Broking we have spoken to various trade sectors including members of leading trade associations and have created a cost effective insurance solution. We have negotiated a Directors' and Officers' Liability product that includes full cover for FFI, along with unlimited advice from solicitors on any business topic, not just FFI.

Our solicitors employ specialists in HSE and FFI who will support you throughout the HSE's intervention – which could range from an inspection only to a full and lengthy investigation including caution interviews.

We are all fully aware of the tremendous Health & Safety efforts and improvements made within the Demolition sector in recent years, as is highlighted by consistently improving accident statistics. With this in mind, and with the knowledge continually improving within all job levels in the sector, it seems a safe bet that these areas of HSE Enforcements and FFI actions will also steadily reduce year on year.

*This article was written by Jamie Coyne, Director at Square Mile Broking Ltd*