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Our Ref:

HSE Settles Judicial Review Brought by OCS Group on FFI Charges before High Court Hearing:

To: All Branches

Dear Colleagues,

The Health and Safety Executive (HSE) has reached an out of court settlement with OCS Group who had launched a judicial review of the HSE's cost recovery process. The planned High Court hearing was due to be heard in March.

OCS Group, an international facilities management company, was granted permission for the judicial review in September 2016.

The matter under review was the process used by HSE for handling challenges to its charges for visiting workplaces, under its Fee for Intervention (FFI) scheme.

FFI was introduced in October 2012 in an effort to pass on the costs of health and safety monitoring and compliance to businesses and organisations rather than have them paid for via taxation through government funding of the HSE.

In practice, this means that if an HSE inspector visits a workplace and is of the opinion there have been breaches of health and safety legislation then the organisation is required to pay the HSE's costs for its visit and any subsequent investigation or prosecution.

In the case of disagreement over whether there were breaches or the level of those costs charged, a dispute resolution panel consisting of two HSE representatives and an independent person sat to decide the matter.

OCS Group said in a statement that they are a safety-focussed organisation and have a good working relationship with the Health and Safety Executive, however the decision to ask for a judicial review of the Fee for Intervention (FFI) dispute resolution process was not about opposing the idea of FFI but about addressing concerns about the independence, fairness and transparency of the dispute process in which the HSE effectively acted as prosecution, judge and jury.

The HSE agreed to introduce a revised process for determining disputes before the end of 2017 which will be completely independent and addresses the concerns.

Both sides announced they were pleased to have reached agreement which brings in a revised process for determining disputes.

In the terms of the consent order entered into by both parties, the HSE has withdrawn its original August 2014 notice of contravention in which it alleged failures in the management of Hand Arm Vibration Syndrome (HAVS) by OCS Group staff.

The Fee for intervention (FFI) scheme applies to companies and organisations found to be in breach of health and safety law by a HSE Inspector. Those companies and organisations will have to pay for the time it takes the HSE to identify the breach and help companies put things right. This includes investigating and taking enforcement action and is called fee for intervention (FFI). The FFI hourly rate is £129. Those invoiced must pay any invoice within 30 days. Those who disagree with the fee incurred can query the invoice, the FFI team at the HSE will consider it and if still not satisfied with the response, it can be disputed and then referred to an 'independent disputes panel'.

Yours sincerely



Dave Joyce
National Health, Safety & Environment Officer