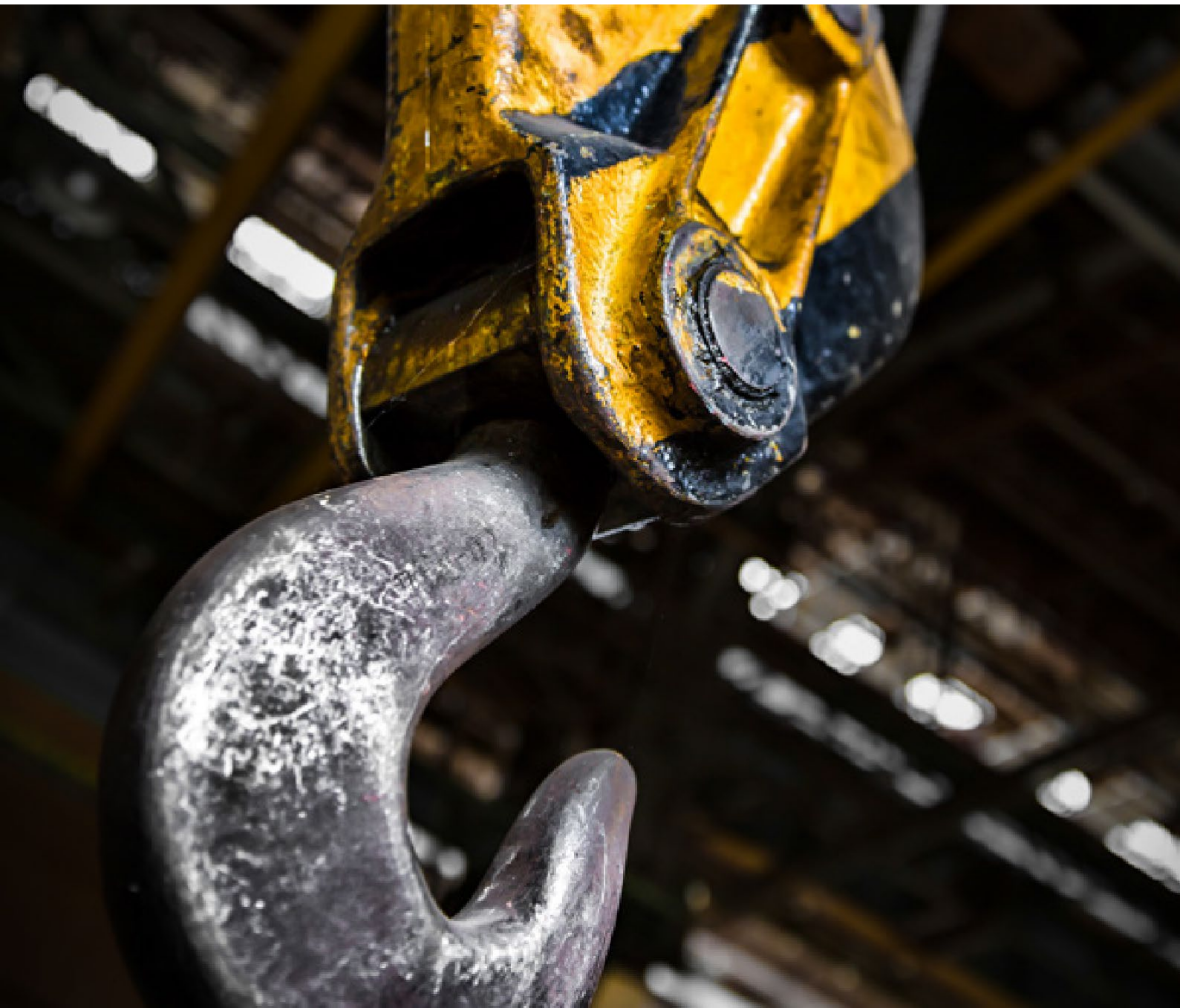




EVERYTHING YOU NEED TO KNOW

About your LOLER lifting equipment inspection duties



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■ WHY YOU SHOULD TAKE LIFTING EQUIPMENT SAFETY SERIOUSLY

Almost every week there are reports of serious lifting equipment accidents – from injuries that arise from workers getting stuck in moving parts, to fatal falls from height.

In fact, statistics supplied by the Health and Safety Executive (HSE) show that falls from height are the most common cause of fatal workplace accidents.

Maintaining and inspecting lifting equipment is essential to ensuring that it does not deteriorate to an unsafe condition and result in accident.

With changes to sentencing guidelines & the increasing threat of criminal prosecution, every organisation must take necessary precautions and remain diligent. This guide outlines your legal duties, as well as taking you through the reasons why preventing such accidents should be at the top of the agenda for every responsible management team.

This eBook covers:

- Your general duties under The Lifting Operations and Lifting Equipment Regulations 1998 (LOLER)
- How to determine the scope and nature of your inspection obligations
- Who is a competent person that can carry out LOLER inspections
- The legal and business consequences of failing to comply with your duties
- What to look for in a third party inspection company - and why you cannot blindly rely on self-proclaimed expertise.

In 2015/16, there
were 469,000
self-reported injuries

469,000

144

and 144 fatalities

arising from accidents at work,
with an estimated 4.5 million
lost working days as a result.
Falling from height was the
main cause of fatal incidents.

4.5m

Source: Health and Safety at Work: Summary statistics for Great Britain 2015/16



■ THE LEGAL AND BUSINESS CONSEQUENCES OF FAILING TO COMPLY WITH LOLER

Some companies may believe that they can cut corners and that lifting equipment accidents are 'unlucky' events that will happen to another company. However, the statistics tell another story.

With the HSE now more zealous than ever in their health and safety prosecutions, a shifted focus on the degree of risk, rather than the end result and a wealth of business reasons in favour of total compliance, can you afford not to comply?

The tougher approach of the Courts and the HSE

Organisations can no longer escape severe sentences due to a near-miss. Instead, the new Sentencing Guidelines introduced on 1 February 2016 require the Courts to consider their culpability and the degree of probable risk - instead of any harm that actually occurred - as well as their ability to pay fines.

Armed with this remit, the courts and the HSE have shown a more hard-hitting approach to both organisations and senior managers responsible for health and safety.



According to [data](#) from the HSE, analysed by the law firm Clyde & Co LLP, **the number of directors prosecuted for health and safety offences tripled in the period of 1 April 2015 to 31 March 2016,**

46

with 46 directors and managers prosecuted

compared with 15 in the previous year.

15

The total value of **fin**es imposed have also **increased by 43% from the year before, jumping from £14.4 million to £20.6 million.** Case reports show these figures are likely to increase further as the courts adopt the new sentencing guidelines.

My interpretation of the new threshold is as follows: if a director or employee knows there is a breach of the law that has at least a medium likelihood of causing death or disability, then the court is directed as a starting point to impose a punishment of one year's imprisonment, with a range of between 6 and 18 months depending on other relevant factors.

Dr Simon Joyston-Bechal, Director at Turnstone Law



Find out more about the courts' new approach to sentencing with our eBook:

[The Amended Health & Safety Court Sentencing Guidelines, The New Criteria For Courts.](#)



A range of HSE intervention measures

The HSE will consider the degree of inherent risk in workplaces, as well as any past health and safety breaches or complaints. Enforcement measures can range from prohibition notices to fines and prosecutions for serious breaches - all of which can cause significant business disruption. With the Courts now looking at the degree of risk rather than actual harm caused, prosecutions are becoming much more likely.

The business consequences of non-compliance

Insurance companies may not cover the cost of claims

- ▶ Even minor lifting equipment incidents can result in a claim and the costs can quickly escalate for personal injury claims once loss of earnings, medical bills and legal fees are factored in
- ▶ If your insurance company has evidence that you failed to comply with the relevant health and safety legislation, there is a possibility they may not cover the entire cost of the claim.

Increased insurance premiums

- ▶ Insurance premiums will be based on the number and severity of previous health and safety claims or incidents, with some insurers even providing rebates to those that can demonstrate that effective procedures are in place.

Adverse publicity

- ▶ The negative consequences of adverse publicity following a conviction should not be underestimated. It is no coincidence that large organisations will employ top lawyers to negotiate increased fines in exchange for avoiding an adverse publicity order.

■ YOUR DUTIES UNDER LOLER

Overview

The requirements for the examination of lifting equipment found within the LOLER regulations apply over and above the more general requirements of the Provision and Use of Work Equipment Regulations 1998 (PUWER). They must also be read in the context of the overarching Health and Safety at Work Act 1974 (HSWA) and Management of Health and Safety at Work Regulations 1999 (MHSWR).

LOLER aims to protect workers from lifting equipment and handling accidents by ensuring that:

- **The right lifting equipment is selected and appropriately marked for safe working loads**
- **Lifting operations are properly planned, managed and carried out in a safe manner**
- **Lifting equipment is thoroughly examined at suitable intervals by a competent person.**

This guide is generally limited to the examination requirements of LOLER.

What LOLER covers

LOLER covers work equipment that lifts or lowers a load. This includes the attachments used for anchoring, fixing or supporting it. LOLER, therefore, covers a wide range of equipment such as cranes, lifts, excavators and trucks.

It also covers accessories for lifting, which includes any chain, rope, sling, or component kept for attaching loads to machinery for lifting.

Conducting risk assessments

Every workplace must carry out risk assessments of work equipment under Regulation 2 of The Management Regulations, which states that for ***“each job using work equipment, you need to build in health and safety by carrying out a risk assessment”***.

Risk assessments are integral to every stage of LOLER, from the initial selection through to installation, in-service safety & stability and recommissioning/ decommissioning.



In-service risk assessment

An assessment of the risks associated with the management and use of lifting equipment must also be made to ensure lifting operations are properly planned. The assessment should also include identifying maintenance needs and the extent & scope of your inspection regime.

The following issues will need to be considered in order to identify the management and use hazards arising from lifting equipment:

- ▣ The type of load being lifted
- ▣ The risk of the load falling & striking a person or object and the consequences
- ▣ The risk of the equipment striking a person or object and the subsequent consequences
- ▣ The type of equipment and how & where it is used
- ▣ The risk of the lifting equipment failing, or falling over whilst in use.

We cover the extent & frequency of inspections and competence requirements in greater detail later in this guide.

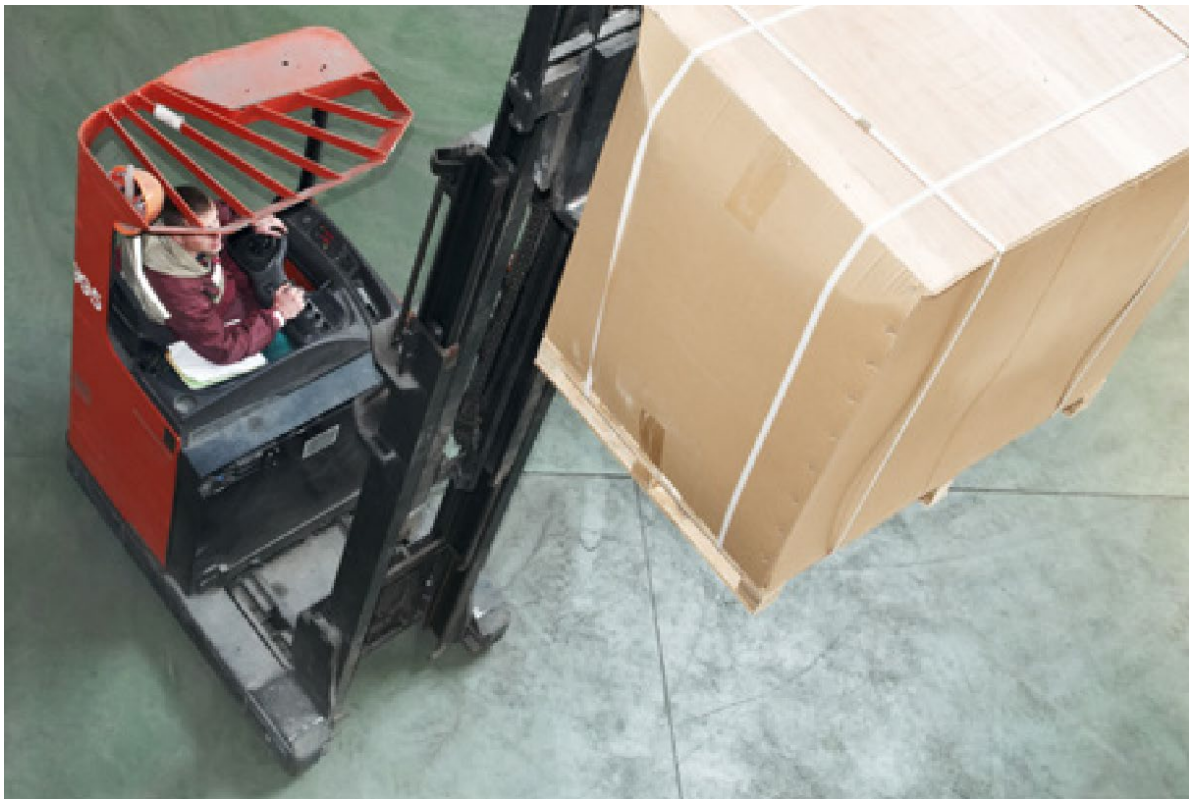


When examination and inspection must be carried out

Regulation 9 of LOLER states that thorough examinations must be carried out:

- ▶ **Before using it for the first time** - before equipment is taken into service (though there are some exceptions for CE marked new equipment)
- ▶ **Post installation** - where safety is dependent on correct installation
- ▶ **In service** - where lifting equipment is exposed to conditions that cause deterioration which could lead to a dangerous situation, they must be thoroughly examined:
 - periodically, or in accordance with an examination scheme
 - following any exceptional events such as an accident or long period without use.

If appropriate, lifting equipment should also be inspected at suitable intervals in-between thorough examinations.



In-service inspections

Prescribed minimum periods between inspections

Regulation 9 of LOLER prescribes minimum periods between thorough examinations of lifting equipment. These are:

- Every 6 months for lifting equipment used for lifting/lowering persons e.g.: passenger lifts, access platforms and window cleaning equipment
- Every 6 months for lifting accessories ('tackle') e.g.: chain slings, eyebolts and shackles
- Every 12 months for all other lifting equipment not falling into either of the above categories e.g.: cranes and lift trucks, when used solely for lifting goods.

The [LOLER Approved Code of Practice and Guidance \(ACOP\)](#) states that:

The frequency depends on the type of equipment and the purposes for which it is used, e.g.: equipment used for lifting people requires more frequent examination. The periods stated are the maximum periods between each examination unless there is an examination scheme produced by a competent person in place, which can specify longer or shorter periods depending on the risk of defects arising.

As the guidelines state, the maximum periods between inspection and the frequency of examination should always be based on an assessment. The assessment will consider factors such as how quickly machinery or safety devices are likely to deteriorate and pose a potential risk to operators/workers. Such risk can be calculated and measures put in place to prevent possible injury. **It is important to remember** that the risk assessment is not optional and while appropriate standards, or government/trade association guidance contain helpful pointers, they should never take the place of a risk assessment.

Risk based inspection

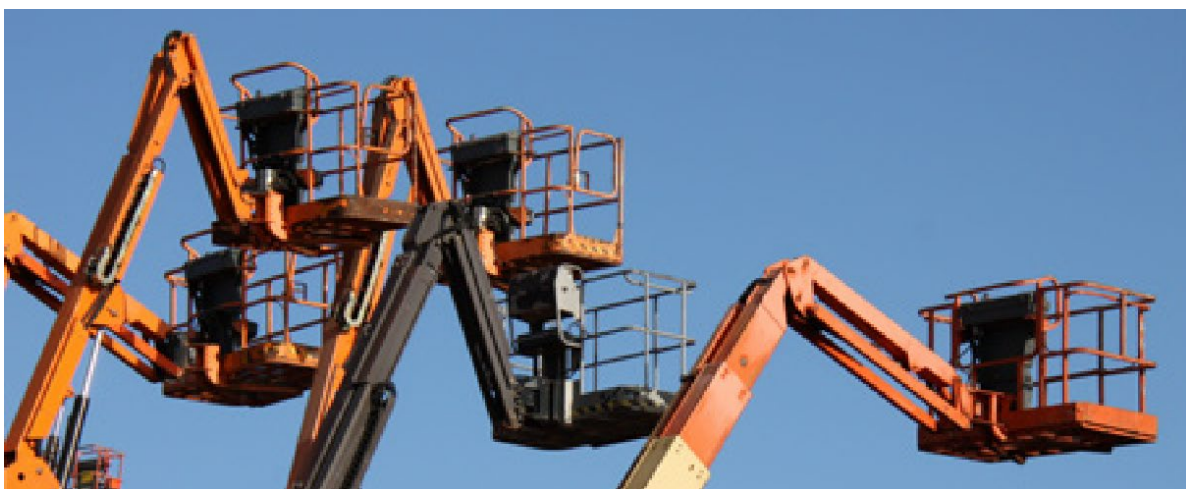
Regulation 9 of LOLER and ACOP offers a 'risk based' approach to examination. This means that customers can arrange for a scheme of examination to be drawn up which takes account of their specific equipment, environment and operations in order to define the scope and frequency of ongoing through examinations, based on foreseeable risk.

While the [HSE](#) has stressed that *“safety concerns need to take precedence over other influences such as business interruption and loss of earnings”* when considering implementing risk based inspection, the approach does generally result in both improved safety and cost savings from a reduced overall inspection frequency.”

SAFed's Guidance on In-Service Inspections

SAFed plays a key role in helping individuals and organisations obtain relevant advice to support them in maintaining and complying with standards for equipment inspection and safety in UK workplaces. SAFed's guidance on [carrying out the regulatory thorough examinations under LOLER Regulation 9](#) provides a helpful table which confirms the recommended **maximum** frequency of inspection for various work equipment. It also states if an independent inspection company is strongly recommended for the specific item.

The next table details a [range of work equipment SAFed recommends for inspection](#) and the right person for the job.



Competence: Who can carry out LOLER examination and inspections?

The LOLER interpretative provisions make it clear that thorough examinations and any testing must be carried out by a competent person.

The LOLER Approved Code of Practice and guidance (paragraph 296) provides further information on what this means:

*“You should ensure that the person carrying out a thorough examination has such **appropriate practical and theoretical knowledge and experience of the lifting equipment** to be thoroughly examined as will enable them to **detect defects or weaknesses and to assess their importance in relation to the safety and continued use of the lifting equipment.**”*



*“The competent person must be sufficiently independent and impartial to allow objective decisions to be made. This does not mean that competent persons must necessarily be employed from an external company. If employers and others within their own organisations have the necessary competence then they can use it. However, if they do, they must ensure that their ‘in-house’ examiners have the **genuine authority and independence** to ensure that examinations are properly carried out and that the necessary recommendations arising from them are made **without fear or favour.**”*

You should, therefore, ensure that anyone carrying out inspections:

- Has practical and theoretical knowledge
- Is sufficiently experienced
- Is sufficiently independent and impartial, so that they can act ‘without fear or favour’.

In larger organisations, competence and the ability to act ‘without fear or favour’ may be possible to achieve in-house, but for small and medium organisations it is usually necessary to instruct a third-party inspection company.

ACOP further makes it clear that it is the employer’s duty to ensure that they employ a suitably qualified competent person to carry out the thorough examination. Employers should, therefore, ensure that they are diligent when discharging this duty.



■ USING A THIRD PARTY INSPECTION COMPANY: WHAT TO LOOK FOR

Those responsible for lifting equipment safety cannot simply discharge their examination and inspection duties by instructing a third party who specialises in this area. Instead, they must take all reasonable steps to verify their competence.

ISO/IEC 17020 compliance

Independent inspection bodies should be able to provide proof of compliance with the ISO/IEC 17020, an international standard for inspecting and testing plant equipment.

‘Type A’ accreditation

The United Kingdom Accreditation Service (UKAS) is the national accreditation body for the United Kingdom, appointed by the government, to assess organisations that provide certification, testing, inspection and calibration services. UKAS undertakes assessment and certifies compliance with ISO/IEC 17020.

You should look for a ‘Type A’ third party inspection service company, as this ensures:

- Independence and impartiality, without favour of profit from recommended repairs
- Engineers Surveyors meet a minimum required standard of competence (required experience of 5 years)
- Annual assessment of internal policies and training
- Formal feedback and improvement procedures are in place
- Audits of on-site inspections are undertaken by a third party.

Can you rely on your competent person?

2
YEARS
in prison

SHP Online reported on the **two year prison sentence** issued to an access firm manager following a fatal incident, who had relied upon the **negligent advice** of a third party inspection company to **repair instead of replace** a damaged a mobile boom lift.

As the HSE Inspector pointed out:

“The competence and diligence of a thorough examiner is vital as it is they who declare the MEWP [Mobile Elevating Work Platform] safe to use.”



■ ABOUT MAT ENGINEERING SERVICES

MAT Engineering Services is an accredited 'Type A' independent third party inspection and testing company that carries out LOLER thorough examinations, inspections and risk assessments.




We pride ourselves in retaining and recruiting the best Engineer Surveyors in the business - those with the on-the-job experience and qualifications to ensure that they are highly competent in their role. We then supplement this with industry-leading training and development, setting the standard for others to follow.

Our external engineering certifications and accreditations are second-to-none, we are members of the most prestigious industry bodies and we sit on national and international standards committee boards - testament to the importance we place on ensuring that our people and processes keep our customers' equipment safe, compliant and efficient.

Our focus is on protecting people and business. To do so, it is imperative that issues are identified and dealt with as soon as they arise.

Our team of support staff and Engineer Surveyors are on hand to respond to customer issues as and when they arise. Added to this, our customers can sleep easy at night, safe in the knowledge that our transparent online reporting system can provide them with an overview of their engineering compliance 24 hours a day, 7 days a week.



Ensure your lifting
equipment is safe,
compliant and efficient

**SPEAK TO THE INDUSTRY-LEADING
LOLER EXPERTS**



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