



THE ESSENTIAL GUIDE

To fulfilling your POWER work equipment inspection obligations



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■ THE IMPORTANCE OF WORK EQUIPMENT SAFETY

Each year, work accidents cost lives and result in hundreds of thousands of injuries.

Statistics supplied by the Health and Safety Executive (HSE) show that many of these incidents involve the use of work equipment.

Preventing such accidents should be top of the agenda of every organisation's management team. Not just due to the devastating impact it can have on employees and their families, but also because of the potential cost and reputational damage for businesses. Even near misses can result in far-reaching consequences, such as fines, claims, business interruption and reputational damage. On top of that, for those responsible for work equipment safety within the organisation – such as Dutyholders and Asset Managers – the increasing threat of criminal prosecution means they need to be extra diligent.

Fulfilling your legal obligations needn't be as daunting as it may initially seem. In this guide, we take you through the basics of your work equipment inspection obligations, including:

- **Your general duties under The Provision and Use of Work Equipment Regulations 1998 (PUWER)**
- **How to determine the scope and nature of your inspection obligations**
- **Who can carry out PUWER inspections**
- **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 4.5million
lost working days as a result.

4.5m

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



■ THE PERILS OF IGNORING YOUR DUTIES

Work equipment risks are not always fully appreciated, or commercial pressures can mean that such risks are often overlooked, with some people believing that serious injury or death will not happen on their watch. Yet the statistics tell a different story and the impacts are not just left with the victim and their families - the consequences for culpable businesses and management can no longer be ignored.

The consequences of health and safety breaches are being felt much more acutely than ever before. Can your business - or you as a responsible manager - afford to ignore these risks?

A tougher approach to prosecutions and sentences

The introduction of the new Sentencing Guidelines on 1 February 2016 has marked a significant change in the way that organisations are held accountable for health and safety failings. Companies can no longer avoid tougher sentencing through 'lucky' escapes. Instead, their culpability and the degree of probable risk will be considered - instead of what harm actually occurred - as will their ability to pay fines. This means that even if anyone isn't actually harmed or injured, organisations can still be prosecuted if they fail to mitigate risks in the workplace.

The courts have demonstrated their willingness to impose tougher sentencing on both organisations and individuals and their new approach has also influenced the number of prosecutions now brought by the HSE.

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

Investigation and enforcement by the HSE – not just limited to serious injury and death

The HSE will undertake inspection of work premises based on the degree of risk, past health & safety breaches and any complaints about potential breaches. The HSE can enforce failures in a number of ways, ranging from prohibition notices to fines and prosecution for serious infringements.

Even smaller breaches can cause significant business interruptions due to HSE investigations.

Your insurance company may not pay out fully on personal injury claims

Your place of work does not need to experience a major work equipment failure to result in a claim. Claims can even follow from minor incidents and the cost of personal injury claims can quickly escalate when medical bills and loss of earnings are factored in.

If you did not comply with the relevant health & safety legislation, your insurance company may not cover the entire cost of the claim.



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.

Increased insurance premiums

The severity and number of previous health and safety breaches is a key factor in determining insurance premiums. Some insurers even provide rebates to those who can demonstrate a proactive and effective approach to health & safety.



■ YOUR DUTIES UNDER PUWER

Overview

Employers have broad duties under the Health and Safety at Work Act 1974 (HSWA) to “*ensure, so far as is reasonably practicable, the health, safety and welfare at work*” of all of their employees. Further general duties are set out in the Management of Health and Safety at Work Regulations 1999 (MHWSR) and specific work equipment safety duties are set out in PUWER.

PUWER aims to protect employees from work equipment related accidents by ensuring that:

- The right work equipment is selected
- Work equipment operations are properly planned, managed and carried out in a safe manner
- Work equipment fit for use, maintained in a safe condition and regularly inspected (and, if required, tested) before use and at suitable intervals by a competent person to check for correct installation and subsequent deterioration
- Users have received adequate information, instruction and training
- Appropriate health and safety measures are in place.

It does so by placing a number of duties on companies in control of work equipment. The duties can be broadly split into two: ‘*hardware requirements*’ and ‘*software requirements*’. The hardware requirements relate to whether the machine is ‘safe to be put into service’ and cover its design, installation and suitability for purpose. The software requirements exist to ensure that the machinery remains ‘safe for continued use’.

This guide focuses mainly on the inspection duties that arise under the software requirements of PUWER.

Conducting risk assessments

There is a general duty under Regulation 3 of the MHWSR, 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 underpin every stage of PUWER, from the initial selection, through to installation, in-service safety/stability and recommissioning/ decommissioning.

Prior to putting the equipment into service, a one-off risk assessment is undertaken to ensure that the equipment is safe to put into use. For existing machinery, a retrospective assessment (often known as a ‘design review’) should be carried out to ensure the equipment remains safe to use and meet today’s expected levels of safety. These will both require a competent person who has the necessary technical knowledge of how particular work equipment risks may arise to supplement your own knowledge of working practices. How to conduct such risk assessments is outside the scope of this guide, but you can speak to one of our experts to find out more.

An assessment of the risks associated with the management and use of lifting equipment must also be made, which will include identifying maintenance needs, along with the extent and scope of your inspection regime. We cover the competence requirements in greater detail later in this guide.



When inspections must be carried out

Regulation 6 of PUWER states that inspections 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 and assembly at a new site or location**
- **In service:** where work equipment is exposed to conditions which could cause deterioration that could lead to a dangerous situation, they must be inspected:
 - At suitable intervals
 - Following any exceptional events which could jeopardise its safety.

The Approved Code of Practice (ACOP) states that the purpose of inspections are to *“identify whether the equipment can be operated, adjusted and maintained safely and that any deterioration (for example: defect, damage or wear) can be detected and remedied before it results in unacceptable risks”*.

What needs to be inspected in-service

PUWER requires that equipment which may deteriorate and give risk to a dangerous situation is inspected in-service. The ACOP makes it clear that inspections must be carried out where a *“significant risk”* has been identified in the initial risk assessment under regulation 3 of the Management Regulations which is one that could *“result in imminent failure”* and *“lead to a major injury”*.

The extent and frequency of inspection

The extent of the inspection will depend on the potential risks that may arise from the work equipment, which will depend on:

- **The type of equipment**
- **Where it is used**
- **How it is used.**

As such, the extent of inspection may vary from a simple visual check by end users, to a thorough inspection by an independent party and even testing.

The frequency of inspection should always be based on an assessment of the risks of how quickly machinery or safety devices are likely to deteriorate. This will determine when they will pose a significant risk to the operator or other workers. Whilst appropriate standards and government/trade association guidance may contain helpful pointers, they should never replace a physical risk assessment.

Competence: Who can determine the nature of and carry out PUWER inspections?

What PUWER and ACOP tell us

PUWER states that the inspection requirements “*means such visual or more rigorous inspection **by a competent person** as is appropriate for the purpose described in the paragraph*”.

However, para 92 of ACOP draws a distinction between who can **determine the nature** of the inspections required and **who can carry out inspections**, as they require different knowledge and experience. It is, therefore, not necessary for them to be one and the same person.



Those determining the nature of the inspection must be able to decide “*what the inspection should include, how it should be done and when it should be carried out*”. This includes being able to “*detect damage or faults resulting from deterioration*” and “*whether any tests are needed during the inspection to see if the equipment is working safely or is structurally sound*”.

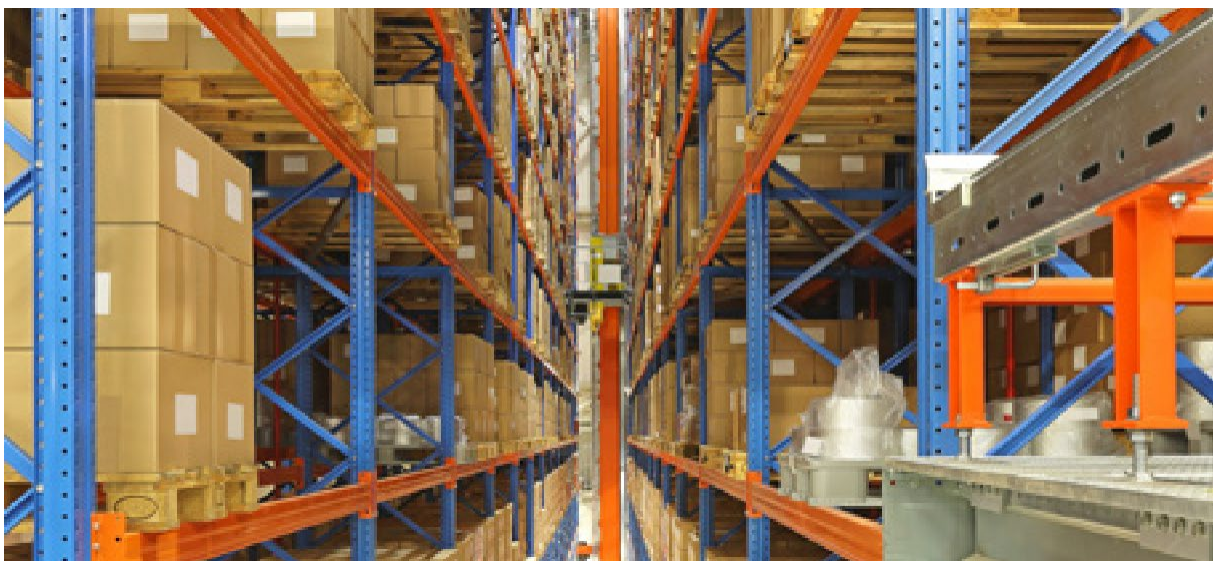
Those carrying out the inspections must have “*adequate knowledge of the equipment to: enable them to know what to look at (know the key components); know what to look for (fault-finding); and know what to do (reporting faults, making a record, who to report to).*”

Finally, the **level of competence** will “*vary according to the type of equipment and where and how it is used*”.

Putting it all together

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’.



While inspections of some more basic equipment may be capable of being undertaken in-house, more complex machinery such as lifting equipment, power presses and mobile work equipment often require both internal and external expertise and knowledge. Internal staff should be able to offer insight into existing processes, usage, common issues that occur. Meanwhile, external experts can offer wider engineering knowledge of health and safety best practice and in-depth working knowledge of machinery.

Larger organisations may have appropriate mechanisms in place to enable those involved in inspections to act ‘without fear or favour’ but this is likely to be much harder in small and medium businesses.

SAFed’s Guidance on In-Service Inspection Procedures

[SAFed’s Guidance on In-Service Inspection Procedures](#) provides a helpful table which confirms the recommended **maximum** frequency of inspection for various work equipment and whether or not an independent inspection company is recommended for the specific item.



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

Merely instructing a third party inspection company is not enough. It is imperative that you can prove that you took 'all reasonable steps' to ascertain their competence. In addition to what they say they can do, you should look for evidence that they can actually deliver on their promises.

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 recently 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 safe to use.”



■ ABOUT MAT ENGINEERING SERVICES


MAT Engineering Services is an accredited 'Type A' independent third party inspection and testing company. 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. In order 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 work
equipment is safe,
compliant and efficient

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



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