



# PROACTIVE ENFORCEMENT APPROACH TO PREVENTING FALLS FROM HEIGHT

## ■ Introduction

Preventing falls from height is a priority for the Labour Group of the Ministry of Business, Innovation and Employment.

From 1 July 2012, health and safety inspectors will be enforcing the Health and Safety in Employment Act 1992 in the construction sector as part of the Labour Group's *Preventing Falls from Height* project.

Falls while working at height contribute to an unacceptable number of serious harm accidents reported to the Labour Group. More than half the reported falls are from less than three metres and most of these occur from ladders and single-storey roofs. More injuries from falls happen on residential building sites than any other workplace in the construction sector.

Work at height must be actively managed so that people are not harmed or killed as a result. Doing nothing is not an option.

This document outlines the enforcement actions you can expect from inspectors if you are not working safely at height. It has been drafted in accordance with our [Keeping Work Safe](#) enforcement policy.

## ■ Approach

The Health and Safety in Employment Act 1992 (HSE Act) sets out that duty holders must take all practicable steps to ensure the safety of workers when they are exposed to the risk of a fall or where the hazard of working at height exists.

To help bring down the death and serious injury toll resulting from falls from height, our health and safety inspectors will be visiting worksites to target enforcement where there is significant visible non-compliance. This includes worksites that are:

- taking inadequate precautions to prevent falls from and through single-storey roofs and other structures
- using ladders or trestles where an alternative would be more appropriate, for example scaffold, mobile elevating work platforms (MEWPs), or guard-railed temporary work platforms
- using ladders unsafely, including defective or substandard ladders.

If there's a chance of a fall – from any height – precautions have to be taken. Health and safety inspectors will challenge any workplace that supports a view that no height hazard exists below three metres.

## ■ How will worksites be targeted?

Worksite visits will not be at random. Health and safety inspectors will use information and knowledge from a range of sources to target duty holders and worksites, including:

- information from construction clients who have current prior warnings for falls-related breaches
- reviewing the regular *What's on* Reports
- their local knowledge gained through regular patrolling of residential areas
- information from local authority building inspectors who have identified sites where they found no edge protection or scaffolding being used
- complaints, serious harm accidents and hazardous work notifications.

Inspectors will continue to visit the worksites of targeted duty holders until they are satisfied the duty holder is complying with the HSE Act. If another significant hazard is observed, it will be addressed in accordance with the Labour Groups' *Keeping Work Safe* policy.

## ■ Who will be targeted?

- builders, roofers, electrical workers, painters and decorators who are at high risk of falling from less than three metres while working on roofs, off ladders and unsafe working platforms
- principals of the builders, roofers, electrical workers, painters and decorators who have been identified as working unsafely (inspectors will proactively identify and engage with principals regarding compliance issues)
- residential construction, but not exclusively
- duty holders with a history of poor compliance with safe working at height
- large companies with a history of poor compliance and poor contractor management with safe working at height



## ■ What are the enforcement expectations?

FOR CASES THAT...	ENFORCEMENT EXPECTATION
Involve a fall from height in the construction sector that resulted in serious harm and when evidence supports that there has been a failure linked to one or more of the three key areas	<b>A recommendation of prosecution is expected</b>
Did not result in serious harm, but had the potential to and where evidence supports that there has been a failure linked to one or more of the targeted key areas	<b>Inspectors will consider the merits of a prosecution</b>
Did not result in serious harm and there was a valid prior warning for a same or similar matter	<b>An infringement notice will be issued</b>

**Note:** The inspector will carefully consider the legal duties of each party, be able to prove all elements of the offence and also consider whether or not following particular guidance was practicable in the circumstances.

## ■ How will compliance be assessed by inspectors?

Inspectors will be assessing if equipment and workplace practices comply with the HSE Act and are adequate to prevent falls from height. Compliance will be assessed across three key areas:

1. Hazard management (including hazard identification and control)
2. Selection, use and maintenance of equipment
3. Systems for the selection and control of contractors

### 1. Hazard management (including hazard identification and control)

That hazards associated with potential falls from height have been identified and adequate control measures are in place (as per the hierarchy of controls).

Read [Safe Working at Height Factsheet 1: Planning a safe approach to working at height](#) for more information

#### Expected enforcement actions – Hazard management

HAZARD MANAGEMENT	
Situation	Enforcement action
The inspector observes inadequate/no precautions to prevent falls from or through single-storey roof and other structures OR unsafe use of ladders.	<b>Prohibition Notice</b> will be issued, or, if rectified immediately, a Written Warning.
The inspector finds evidence that <b>the hazard of a fall from height has not been adequately managed</b> , and appropriate steps and controls are not being taken. <b>Note:</b> Short duration work at height will be treated the same as any other activity at height.	<b>Improvement Notice</b> will be issued which may require the duty holder's hazard management system to identify work involving the height hazard and the appropriate steps for carrying out the work safely.
The inspector observes that <b>fragile surfaces</b> and platforms or secured coverings do not support the weight of a worker, or people who are working nearby, and guardrails or secured coverings have not been provided.	<b>Prohibition Notice</b> will be issued and a prosecution will be considered.



## 2. Selection, use and maintenance of equipment

That appropriate fall prevention and access equipment is provided, well maintained, regularly inspected and used.

Read [Safe Working at Height Factsheet 2: Selecting the right equipment for working safely at height](#) for more information

### Expected enforcement actions – Selection, use and maintenance of equipment

SELECTION, USE AND MAINTENANCE OF EQUIPMENT	
Situation	Enforcement action
Work is being carried out at height where a person could fall a distance likely to cause personal injury and there are no controls to prevent falling, for example roof work, work at open edges, unjustified use of a ladder or trestle.	<b>Prohibition Notice</b> will be issued.  <b>Note: Improvement Notice</b> may also be issued requiring the duty holder's hazard management system to identify work involving the fall from height hazard.
<b>Edge protection</b> – Guardrails, mid rails, toe boards or similar barriers are not rigid enough to prevent a person or materials falling; the dimensions don't comply with current standards.	<b>Prohibition Notice</b> will be issued.
<b>General scaffolds</b> – Where a scaffold is not...	
<ul style="list-style-type: none"> <li>erected, altered and dismantled by competent people</li> </ul>	<b>Improvement Notice</b> will be issued to ensure workers are adequately trained or supervised by a competent person.
<ul style="list-style-type: none"> <li>provided with guardrails, mid rails, toe boards or similar barriers and a person could fall a distance liable to cause personal injury</li> </ul>	<b>Prohibition Notice</b> will be issued.
<ul style="list-style-type: none"> <li>provided with fully boarded working platforms</li> </ul>	<b>Prohibition Notice</b> will be issued.
<ul style="list-style-type: none"> <li>inspected by a competent person at least once per week</li> </ul>	<b>Improvement Notice</b> will be issued requiring an inspection system to be implemented by a competent person.
<b>Tower scaffold</b> – A tower scaffold has been incorrectly assembled such that: <ul style="list-style-type: none"> <li>there are no guardrails and toe boards, or</li> <li>no safe access to the working platform, or</li> <li>the height of the tower scaffold is more than three times the minimum base dimension and the manufacturer's height to base ratio cannot be clarified by the duty holder, or</li> <li>the tower is not vertical, or a ladder is being used on top of it.</li> </ul>	<b>Prohibition Notice</b> will be issued.
<b>Mobile elevating working platform (MEWP)</b> – Where there is... <ul style="list-style-type: none"> <li>no segregation, MEWP or part of it, seen working at height in a live highway. Poor on-site segregation and unsafe practices seen</li> <li>ground conditions poor or not considered so there is a risk of an overturn or collapse</li> <li>no fall protection equipment provided or incompatible/ inappropriate equipment used and unsafe practices seen</li> </ul>	<b>Prohibition Notice</b> will be issued.  After dealing with immediate segregation issues as detailed above, a safe system of work may be needed for segregation. The enforcement expectation is that this is to be directed by using an <b>Improvement Notice</b> .



## SELECTION, USE AND MAINTENANCE OF EQUIPMENT

Situation	Enforcement Action
<ul style="list-style-type: none"> <li>no evidence of MEWP being thoroughly examined in the last six months and no defects are visible.</li> </ul>	<b>Improvement Notice</b> will be issued requiring a thorough examination to be conducted by a competent person and for a system to be in place to ensure that all necessary inspections and examinations are conducted
<b>Harness systems</b> – where:	
<ul style="list-style-type: none"> <li>lanyards are in use and there is visual evidence of significant defects or damage (cuts, abrasion)</li> </ul>	<b>Prohibition Notice</b> will be issued.
<ul style="list-style-type: none"> <li>scaffolding (not tower) is being erected/dismantled/alterd with no safety harness and associated equipment</li> </ul>	<b>Prohibition Notice</b> will be issued.
<ul style="list-style-type: none"> <li>harnesses and lanyards are used frequently and there is no inspection regime but no evidence of defects</li> </ul>	<b>Improvement Notice</b> will be issued requiring an inspection system is put in place by a competent person. The duty holder will need to specify the type and frequency of inspection.
<ul style="list-style-type: none"> <li>the duty holder's hazard assessment does not demonstrate that other, safer (group control) work equipment is not practicable and inspector has reasonable grounds to believe that a person could fall a distance liable to cause personal injury</li> </ul>	<b>Prohibition Notice</b> will be issued.
<ul style="list-style-type: none"> <li>there is no reasonable grounds that a person is at immediate risk of falling a distance liable to cause injury but there is safer (group control) work equipment practicable in the circumstance</li> </ul>	Inspector will discuss/explain the safer alternative and may allow work to continue, requiring the duty holder to use safer (group control) equipment in the future (in the form of an <b>Improvement Notice</b> )
<ul style="list-style-type: none"> <li>users of harness systems are not adequately trained/competent.</li> </ul>	<b>Improvement Notice</b> will be issued requiring users to be adequately trained in the safe use of harness and have a system that ensure the ongoing maintenance of competence.
<b>Ladders</b> – Where portable leaning ladders which are available for use, or in use:	
<ul style="list-style-type: none"> <li>show splits in timber ladders, cracked welds at rung/stile connections on metallic ladders, missing rungs, lack of rigidity and play between rungs and stiles, missing anti-slip devices at the top and bottom, bent stiles at the bottom</li> </ul>	<b>Prohibition Notice</b> will be issued as well as an <b>Infringement Notice</b> if there is valid prior warning. <b>Note:</b> for a prosecution to be considered the defective ladder would have to be found in use and the defect would have to be obviously dangerous.
<ul style="list-style-type: none"> <li>have signs of damage or defects which are not likely to result in imminent risk of serious personal injury, for example minor dents in rungs, damage other than those listed above</li> </ul>	<b>Improvement Notice</b> will be issued, requiring that individual ladders are inspected, or an inspection system is put in place by a competent person. The duty holder will need to specify the type and frequency of inspection.
<ul style="list-style-type: none"> <li>are used as work platform at heights where a person could fall a distance liable to cause personal injury, and consideration has not been given to whether ladders are appropriate equipment for the work.</li> </ul>	<b>Improvement Notice</b> will be issued which may require the duty holder's hazard management system to identify foreseeable work that needs to be carried out from portable ladders and to decide whether they are suitable for the work.



### 3. Systems for the selection and control of contractors

That principals know how to screen potential contractors and actively monitor their work.

Read [Health and Safety in Contracting Situations](#) for more information

If workplaces are not complying, inspectors will then act in accordance with the enforcement expectations set out below. These expectations ensure a consistent approach is used by all inspectors nationally.

#### Expected enforcement actions – Systems for the selection and control of contractors

SYSTEMS FOR THE SELECTION AND CONTROL OF CONTRACTS	
Situation	Enforcement action
Where there is regular or frequent use of contractors for work at height, particularly if various contractors are used, and no contractor management procedure is in place.	<b>Improvement Notice</b> will be issued which may require the duty holder's hazard management system to identify work involving the height hazard and the appropriate steps for carrying out the work safely.