

Procedure for queries and disputes for fee for intervention (FFI)

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Scope

1 This procedure is designed to answer queries and resolve disputes arising from HSE recovering its costs under fee for intervention. HSE aims to resolve queries and disputes promptly, fairly and in a transparent way.

2 Annex 1 gives examples of issues which **are not** grounds to query or dispute an invoice. Queries or disputes citing the examples outlined in Annex 1 will not be considered and HSE will expect full payment of the outstanding invoice.

3 Annex 2 provides a flowchart outlining the query and dispute process.

Queries

4 If businesses and organisations (dutyholders) wish to query the administrative arrangements regarding payment of the invoice, such as terms of payment or changing the address to which future invoices are sent they should contact the HSE Fee for Intervention (FFI) Team between 08:30 and 17:00 Monday to Friday on Tel: 0300 0033 190 or email: feeforintervention@hse.gsi.gov.uk

5 Before querying the basis of the costs shown on the invoice dutyholders should read the information in HSE 47 - *Guidance on the application of Fee for Intervention (FFI)* (<http://www.hse.gov.uk/pubns/hse47.htm>). This outlines the principles of FFI and explains how the scheme operates, with examples of activities where HSE recovers costs.

6 After reading HSE 47, if dutyholders still have queries relating to the invoice, including the invoice total or the reason costs have been incurred, they should contact the HSE FFI Team. This can be done by phoning between 08:30 and 17:00 Monday to Friday on Tel: 0300 0033 190 or email: feeforintervention@hse.gsi.gov.uk as soon as possible after receipt of the invoice and no later than **twenty one days** after the invoice date. Telephone contact will help HSE deal with the query as quickly as possible. Please have the FFI invoice and corresponding HSE report of the work undertaken ready when calling.

7 The FFI Team aim to resolve queries at the time of the first call but sometimes they will need to gather more information from HSE colleagues which could take several days. When this happens, the FFI Team will contact dutyholders as soon as possible with a response to the query. HSE aims to provide dutyholders with a response within **fifteen working days** of the query being made. If the invoice remains unchanged, HSE will expect payment to be made no later than **thirty days** after the invoice date or no later than **ten days** after the dutyholder has been advised of the outcome of their query if this is later.

8 Dutyholders will not be charged for the time HSE spends dealing with queries.

Disputes

9 All enquiries or disputes about an invoice will be treated as a query in the first instance, for which no fee is payable. If dutyholders are not satisfied with the response they can dispute all or part of the invoice. A fee is payable for handling disputes that are not upheld.

10 Disputes are considered by a panel of HSE staff (managers who are independent of the management chain responsible for the work that generated the invoice) and an independent representative.

11 If the dispute is not upheld, HSE will recover the costs of dealing with the dispute using the FFI hourly rate of £129 per hour. This rate will be applied to all HSE staff involved in responding to the dispute. If an invoice remains unpaid within 30 days of the invoice date and is not being queried or disputed, HSE will begin the civil debt recovery process. The query and dispute process is summarised in Figure 1.

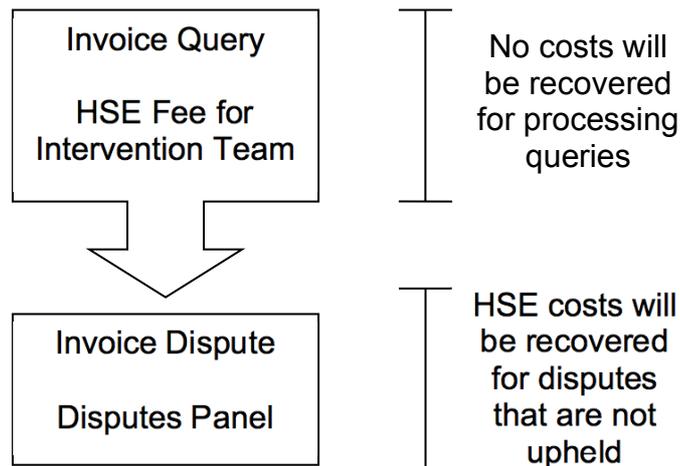


Figure 1 Overview of the query and dispute process

Disputing an invoice

12 Disputes must be raised in writing as soon as possible after HSE has responded to the query and no later than **twenty one days** after the date of HSE responding to the query.

13 To dispute an invoice dutyholders should write to:

Fee for Intervention Team – Disputes
Health and Safety Executive
6.4 Redgrave Court
Merton Road
Bootle
Merseyside L20 7HS

Email: Feeforintervention@hse.gsi.gov.uk

14 The following will be needed to allow the dispute to be processed:

- Invoice number – included on the HSE invoice;
- Customer Reference– included on the HSE invoice;
- Name of the organisation to which the invoice was sent;
- The name of the individual disputing the invoice;
- The specific reason(s) for disputing the invoice (see Paragraph 16 and Annex 1); and
- Confirmation of whether the dispute relates to all or only part of the invoice.

Payment of that part of the invoice not in dispute

15 It may be that only some of the costs on the invoice are in dispute. If so, the dispute should clearly state which elements of the invoice are being disputed. The dispute will then focus solely on the work relating to the disputed costs. The undisputed amount remains payable no later than **thirty days** from the date of the invoice or no later than **ten days** after the dutyholder has been notified of the outcome of their query if that is later.

How disputes are processed

16 Disputes containing the information in paragraph 14 will be referred to a Disputes Panel and an acknowledgment of receipt will be sent to the dutyholder within **5 working days**. The Disputes Panel will comprise of HSE staff (senior managers who are independent of the management chain responsible for the work that generated the invoice) and an independent representative drawn from a pool of industry and Trade Union representatives. The panel will review the response the dutyholder received in relation to their query, the invoice and the work associated with the disputed elements

of the invoice to establish whether the disputed invoice should be upheld, varied or cancelled. This could include considering (where relevant to the matters being disputed) whether:

- the dutyholder has been appropriately notified that there has been a material breach of health and safety law;
- the work done was a cost recoverable function within the meaning of the Health and Safety (Fees) Regulations 2012;
- the material breach relates to legislation for which HSE is required to recover its costs;
- the work was done in accordance with the principles of the Enforcement Policy Statement (EPS) the Enforcement Management Model (EMM) and as outlined in HSE 47 - *Guidance on the application of Fee for Intervention (FFI)*;
- the time taken to undertake the intervention was appropriate and accurately recorded; and
- the costs charged to the dutyholder reflect the costs reasonably incurred by HSE.

17 The Disputes Panel will consider the written evidence relating to the dispute. There is no right for dutyholders or their representatives or HSE inspectors involved in the dispute to appear before the panel. On consideration of the facts, the Disputes Panel will uphold or reject the dispute and confirm, vary or cancel the costs in dispute.

18 The decision of the Disputes Panel will be sent to the dutyholder within **fifteen working days** of the panel decision.

19 If the dispute is not upheld HSE will expect payment to be made no later than **ten days** of the date of the written outcome of the dispute. HSE will also in due course, issue an additional invoice which covers the HSE costs incurred dealing with the dispute.

20 If the dispute is upheld in whole or in part the letter received by dutyholders will detail the outcome of the dispute and also explain the process for cancelling the invoice or the timescales for payment of the varied invoice.

Variation of period in which action is to be taken

21 HSE is committed to meeting the timescales set out in this guidance. However, there may be occasions when it proves impossible for the issues in query or dispute to be considered fully and fairly. Where such circumstances merit it, timescales may be changed by HSE at its discretion. When this happens dutyholders will be informed.

Debt recovery

22 Debt recovery action will not proceed for costs that are being actively queried or disputed through the query and dispute process. Once the query or dispute process has been completed and you have been notified of the outcome, HSE expects any outstanding invoices to be paid. Failure to pay outstanding invoices that are no longer active in the disputes process will result in HSE initiating its debt recovery processes.

Annex 1

Examples of issues that are NOT grounds for dispute

Disagreement with the principle that HSE should recover its costs

23 The Health and Safety (Fees) Regulations 2012 place a legal duty on HSE to recover the costs of its regulation from those found to be in material breach of health and safety law. HSE has no discretion not to recover costs in the circumstances set out in the Regulations so disagreements about the principle of cost recovery are not within scope of the disputes process.

The fee for intervention hourly rate is too high

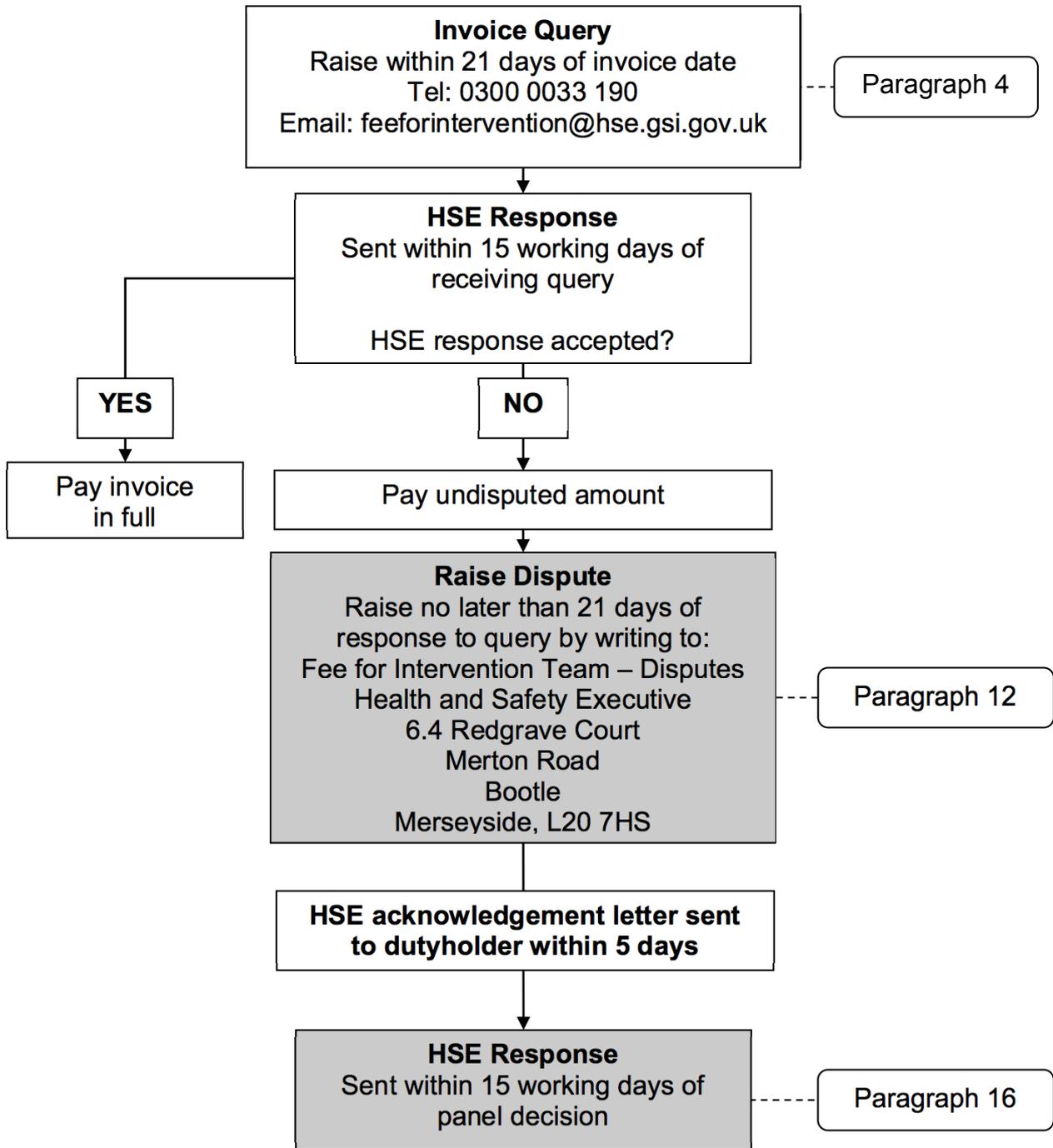
24 The hourly rate is calculated using a rate-setting model in accordance with HM Treasury's Managing Public Money guidance and includes the full cost of all resources used in carrying out FFI activity (http://www.hm-treasury.gov.uk/d/mpm_ch6.pdf). The methodology for calculating the rate is set out in Appendix 2 of HSE 47 - *Guidance on the application of Fee for Intervention (FFI)* (<http://www.hse.gov.uk/pubns/hse47.htm>).

The intervention took longer/cost more than the figures published in the FFI consultation document

25 The timings used in the consultation document were generalised guides and were made on the basis of simplifying assumptions. The duration of HSE's regulatory work such as inspections or investigations will vary depending upon the specific circumstances encountered and the varying level of intervention required. As such the length of time (and the associated cost) will vary from the examples in the consultation document because of the circumstances of each case. The examples are indicative only and as such are **not** a 'standard' and definitive.

Annex 2

Querying and Disputing an invoice: Flowchart Guide to the process



If the dispute is not upheld HSE will recover its costs for the time spent handling the dispute for the processes in the shaded boxes.