



Prosecutions

Company Fined after Man Falls from Crane onto Concrete Floor

Safe working at height has been highlighted once again after a man sustained serious injuries after falling 6m from a crane.

The man, who was working on the cross travel beam of the crane to clean built up dirt fell and suffered multiple fractures to his skull, as well as a broken collarbone and several broken ribs.

MES Environmental Ltd, of Crown Street, Wolverhampton was prosecuted at Wolverhampton Magistrates' Court and fined £8,000 and ordered to pay £3,532.55 in costs.

The gentleman in question remained in hospital of several weeks after the accident and has not yet returned to work.

HSE investigating inspector David Evans said: "Falls from height remain the single biggest cause of workplace deaths and one of the main causes of major injury, but the vast majority of these accidents are preventable if companies assess the risks properly.

"The most common causes of falls from height involve failure to recognise a problem, provide safe systems of work, ensure that these systems are followed and provide adequate information, instruction, training or supervision. There really is no excuse for this."

HSE Warns Employers to Assess Safety of Equipment

The Health and Safety Executive (HSE) has issued a warning to employers about the need to assess the safety of equipment in use at work and ensure that it is properly guarded. This follows an incident in which a worker's hand was damaged by the rotating blades of a valve forming part of the extraction system in a metal recycling process. On 19 May 2009, JBM International Ltd. was fined a total of £5,000 and ordered to pay costs of £2,614 by Newcastle-under-Lyme Magistrates' Court after the company pleaded guilty to two charges of breaching health and safety legislation.



HEALTH & SAFETY NEWS

Issue	1
Date:	2 June 09
Page:	2 of 5

Case details

JBM International Ltd, of Kingsilver Refinery, Hixon, Staffordshire (a family owned and operated business which was established in 1979) is a commercial processor of aluminium and industrial waste specialising in innovative and sustainable waste management.

On 27 September 2008 at the company's premises, a 34-year-old employee was investigating a possible blockage to the dust extraction unit of a machine by removing the collection bag and reaching up with his left hand to the exit opening of the extraction unit's rotary valve, when his hand was severely damaged by the blades.

Following the incident the company was prosecuted by the HSE for failing to conduct a suitable risk assessment of the safety of those operating the part of the process that used the rotary valves of the dust extraction unit. The company was also charged with not ensuring that effective measures were in place to prevent access to dangerous parts of the machinery which had been in use for more than a decade.

On 19 May 2009, the company pleaded guilty to two charges of breaching the following health and safety legislation:

- Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998 – requiring every employer to ensure that measures are taken which are effective in (a) preventing access to any dangerous part of machinery or to any rotating stock-bar; or (b) stopping the movement of any dangerous part of machinery or rotating stock-bar before any part of a person enters a danger zone
- Regulation 3(1)(a) of the Management of Health and Safety at Work Regulations 1999 - requiring every employer to make a suitable and sufficient assessment of the risks to the health and safety of employees whilst they are at work.

Key findings

The HSE successfully argued that being able to easily access moving parts of the machine represented an obvious danger and that consequently it was reasonably foreseeable that an injury could occur to any employee whilst reaching into the opening. The machine had been operational for 10-15 years but had not been subject to a suitable risk assessment as it had not been engineered in any way to protect operatives.

This case highlights the continuing need for employers to:

- properly assess risks to employees in using any equipment at work
- ensure, if necessary, that equipment in use at work is sufficiently guarded.



Construction Company Fined for Health and Safety Breaches

- HSENI (Health and Safety Executive for Northern Ireland) has issued a press release about a recent court case result. John Graham (Dromore) Limited was fined £50,000 at Antrim Crown Court after pleading guilty to two health and safety charges brought by HSENI following the death of a worker who drowned after falling into an underground chamber.

Incident details

- In October 2006, Mr Sean Johnston, an employee of John Graham (Dromore) Limited was working as a telehandler driver on the construction of a water treatment plant at Portrush. He was attempting to replace sheets of mesh over an opening in the lid of an underground water tank when he fell in and drowned.

Key findings

- The fatality occurred as a result of the failure of the company to properly risk assess the work activities being undertaken by Mr Johnston. After the hearing Kevin Toner, deputy chief executive with HSENI said 'This tragic incident only serves to reinforce the need for all companies to carry out an assessment of the risks involved with any dangerous work activities to determine and ensure that sensible and effective precautions are put in to place.'

News

Corporate Manslaughter - Will the First Prosecution be Truly Representative?

With ever growing speculation over the very first case under the new Corporate Manslaughter and Corporate Homicide Act 2007, which came into force on 6 April 2008, the Workplace Law Network has looked at the details of the case:

- the prosecution is being brought against Cotswold Geotechnical (Holdings) Limited ('Cotswold Geotechnical'), a small family firm based in Gloucestershire
- it will be heard at Stroud Magistrates' Court on Wednesday 17 June 2009
- Alexander Wright was killed when the sides of an excavated pit collapsed around him. He was 27 years old.
- following the death of Wright, Peter Eaton, a director of the company, was charged with gross negligence manslaughter and for a breach of Section 37 of the Health and Safety at Work etc. Act 1974 (HSWA)
- the company has also been charged with a breach of Section 2 of HSWA, which requires employers to ensure, so far as is reasonably practicable, the health, safety and welfare at work of employees.

Jon Cooper, Health and Safety Specialist at Bond Pearce LLP says that this case is unlikely to assist in understanding how the law will be applied to the majority of corporate UK, nor is it likely that this case will give any novel insight or guidance on the new elements of the Act such as 'senior management' and 'management failure'.

It is also important to consider that with larger companies it can be harder to recognise the management structure, who is classified as senior management and who can have a controlling mind. In cases such as this the controlling mind may have been established relatively easily as the company's director is also being charged with gross negligence manslaughter. Additionally, the company could have been charged with a common law corporate manslaughter offence prior to the Act coming into force.



Alcohol and Drug Policies

A new survey has shown that workers in the media are among England's biggest consumers of alcohol. People in the media, publishing or entertainment industries drink an average of 44 units a week which is equivalent to more than four bottles of wine or more than 19 pints of beer.

People working in IT consume the next most, at 34 units a week, followed closely by the service sector, finance and real estate workers.

People who consume this amount of alcohol are putting their long-term health at risk, says the Know Your Limits campaign. The NHS recommended daily limits are 3-4 units for a man, on a regular basis, and for women to not regularly drink more than 2-3 units a day.

29% of people within the media admitted to feeling pressured by colleagues to drink and one in ten drinkers said that alcohol consumption is affecting their work.

Ben Willmott, Senior Public Policy Adviser at the Chartered Institute of Personnel Development (CIPD), commented on the findings: "Employers should have clear policies on managing alcohol misuse which make clear to employees that drinking to a level which negatively affects their performance, attendance or behaviour at work is unacceptable. Policies should also spell out the health risks of excessive drinking and make it clear that support is available for people that have a dependency problem."

Policies on alcohol and drugs in the workplace should:

- set out the legal obligations behind the policy and summarise the aims of the policy
- make it clear as to whom the policy applies
- make clear what will be considered to be alcohol and drug misuse
- make clear any specific rules/exceptions e.g. in relation to prescription medicines
- explain disciplinary action that will be taken if the policy is breached
- advise where help can be obtained and details of any support that the employer will provide
- assure staff that any alcohol or drug problem will be treated in strict confidence.

Report

Feedback on the Noise and Hand Arm Vibration Worker Involvement Pilot Project

This study, funded by the Health and Safety Executive (HSE), found that worker involvement projects were successful in identifying and solving noise and hand arm vibration (HAV) problems, raising risk awareness, improving working relationships between workers and managers, and enhancing risk assessments.

Background

The worker involvement activity forms part of the noise and HAV programme to reduce occupational ill health by introducing participation projects for workers. Participants were asked to complete a postal questionnaire at the end of the project to provide feedback. Twenty eight companies were recruited by HSE to set up pilot worker involvement projects in July 2006 and four were selected for this feedback study which involved conducting three semi-structured interviews with the project managers. Topics addressed included progress, communication methods utilised, obstacles to progress encountered, use of HSE materials and management of the project.



HEALTH & SAFETY NEWS

Issue	1
Date:	2 June 09
Page:	5 of 5

The study aimed to:

- gain views of worker involvement in the decision making process
- obtain feedback on the usefulness of the support materials
- indicate processes and difficulties in setting up the project
- provide the noise and HAV exposure reduction outcomes from the project
- identify good practice and lessons learnt from setting up worker involvement projects.

Summary

The worker involvement projects were reported to have been effective, beneficial and successful by:

- identifying and solving noise and HAV problems by increasing workers' awareness of the risks from exposure to noise and HAV
- providing useful and informative material by the HSE for the worker involvement project
- networking with other companies for advice, support and knowledge sharing
- utilising a variety of both formal and informal methods of involving workers by the companies in the project
- involving workers in the project. This had increased awareness and understanding of noise and HAV risks, and had been effective in introducing controls.

All of the workers responding felt that involving the workers in health and safety issues was a good idea and one that they wished to see continued within the company.

The main areas of difficulty the project managers experienced in running the project concerned establishing effective two-way communications with the workforce and the amount of time required to drive the project forward. Setting up and running the involvement project took longer than was anticipated and was likely to take two or three years to establish fully.

The following lessons could be learnt from this study:

- informal, one-to-one communications were considered the most effective worker involvement method
- training at an early stage in the project should help workers to understand the issues and need for controls and to raise their awareness of hazards
- commitment from senior managers is important as maintaining the commitment from the workers
- significant time commitment is required and this was considered to be the major disadvantage causing the principal cost of the project
- this is likely to be a long term project that may take two to three years of continual effort to achieve.