



Prosecutions

Company Failed to Protect Worker

A quarry operator has been fined £30,000 after a 30-tonne wheel loader vehicle overturned and slid almost 16ft down a sand stockpile.

Humberside Aggregates and Excavations Ltd, of Newport Road, North Cave, East Yorkshire, was also ordered to pay £10,590 in costs after pleading guilty to three separate breaches of the Quarries Regulations 1999 in the prosecution brought by the Health and Safety Executive (HSE).

Beverly Magistrates Court heard that an employee, who does not wish to be identified, was being trained as a wheel loader operator at North Cave Quarry, Humberside Aggregates and Excavations Ltd's sand and gravel extraction and processing facility.

On 30 October 2009, he was transporting sand from a stockpile when the access ramp edge he was driving on gave way, which caused the machine to overturn and plunge almost 16ft because there were no edge protection barriers in place. The trainee lost consciousness, suffered concussion and was hospitalised for two days.

The Health and Safety Executive prosecuted Humberside Aggregates and Excavations for failing to assess, identify and minimise potential risk, and for ultimately failing to protect the worker.

Following the hearing HSE inspector Richard Noble said:

"This accident could have been avoided had sufficient edge protection been put in place at minimal cost, which has been the standard within the quarrying industry for many years.

"Quarrying remains one of the most dangerous industries to work in. Since 2000 more than 3,000 workers have suffered an injury reportable to HSE and 24 people have been killed. Workplace transport is the industries biggest cause of fatal accidents within the industry, and that is why the industry and HSE work together in a joint advisory committee to introduce good practices for quarry operators.

"We are working very hard to reduce these accidents and fatalities. HSE produce much guidance on how to avoid them, so the reasons why this accident occurred are inexcusable."

Unsafe Practices on Building Site

Fines totalling €35,000 have been handed down to P. Elliott and Co. Ltd in the Criminal Courts in Parkgate Street following a case involving the serious injury of Slovakian national Mr. Marian Smutney.

The case arose when on 24 October 2006 Mr. Smutney was seriously injured on a construction site at Clare Hall on the Malahide Road, Dublin, which was a large development of Apartment blocks under the control of P. Elliott and Co. Ltd.

The incident occurred when a steel cage, constructed of reinforcement bars, was being lifted from a roof of a four story apartment block. The steel cage fell apart and landed on Mr. Smutney below. He was steelfixing mesh adjacent to the intended cage location when the cage struck him. Mr. Smutney has been left with paraplegia as a result of his injuries and has since returned to Slovakia.

Speaking after the sentencing hearing Martin O'Halloran Chief Executive of the Health and Safety Authority said:

"This tragic outcome was a direct result of a failure to manage lifting operations, the consequences of that failure have been devastating for Mr. Smutney."



Takeaway Owner fined £10,000 for Health and Safety and Food Safety Breaches

The former owner of a takeaway that was dangerously wired up to next door's electricity supply has been ordered to pay nearly £10,000.

Wiring at New Sajan Sweet Centre on Stockport Road, Levenshulme, was so dangerous an electrical engineer described it as the worst he had seen in more than 26 years on the job.

An inspector also found the takeaway was infested with cockroaches and mice and closed the premises immediately.

Deeba Hussain, who owned the shop when it was visited by an inspector last June, pleaded guilty to one food safety offence and two health and safety breaches at Manchester magistrates' court.

Hussain, of Birkby, Huddersfield, was fined £1,000 for the food safety offence and £2,000 for each of the health and safety breaches with £4,759 costs.

The court heard how an officer from Manchester council discovered the takeaway's electricity supply had been disconnected because of non-payment of bills, and the business had connected a cable to next door's supply in an 'extremely dangerous' manner.

A specialist electrical engineer from the Health and Safety Executive was brought in to examine the wiring and said the system - using a two plug extension lead - was the worst he had seen in his career.

Other serious electrical defects were found in the premises, including sockets which were hanging off walls and broken socket covers revealing live wires.

The takeaway was allowed to reopen once the pest infestation had been dealt with and the premises had been cleaned.

Council bosses also served a notice on the business ordering the electrical supply was not restored until a proper inspection had taken place and the system was made safe.

Councillor Nigel Murphy, the council's executive member for the environment, said: "The wiring at this takeaway was incredibly dangerous and any customers who went in there, as well as members of staff, were at risk of receiving electric shocks, which can be fatal in some cases.

"Hussain was running her business with no concern for her customers, and they should be relieved to learn she is no longer operating this takeaway."



News

Most Common Cause of UK Fires?

Arson is still the most common cause of fire in the UK, according to Aviva's commercial claims data.

The data shows that 1 in 5 fires were caused by arson, year-on-year since 2005, ahead of any other cause of fire, such as: electrical fault, heating appliances, own trade processes or smoking materials.

Allister Smith, property risk manager for Aviva, said: "Although fire claims fell across all categories last year, we are still seeing a large number of arson claims crossing our desks.

"The latest ABI report on the cost of fire damage shows that even though the number of incidents of fire in the UK has slightly fallen, the actual financial costs of fires rose to a record high of £1.3 billion in 2008. The average cost of fire claims more than doubled between 2002 and 2008.

"It is easy to say that you can't prevent a determined arsonist, but the reality is that the vast majority of arson attacks can either be deterred or their effects controlled. All businesses are potential targets for deliberate fires. Aviva carries out 35,000 property insurance surveys every year, and the majority of these will take place at commercial premises and will include an arson risk assessment. As arson is not always a visible danger, special consideration must be taken to spot potential risks and appropriate measures taken to remove or reduce the risks."

Many risk management measures can be introduced to deter fire setting, and often at little or no cost to a business.

For example:

- keep rubbish bins at least 10m from the building
- raw materials should be delivered to the site on an 'as-needed' basis
- take steps to make sure all doors and windows are secured at the end of each day
- safely store any flammable materials.

Mr Smith explains: "In commercial properties, many malicious fires occur in storerooms and warehouses where there are often few staff to witness the crime being committed or to discover the fire during its early stages. In such areas there is often a plentiful supply of flammable materials, and racks or stacked items left against walls provide both cover for the arsonist and fuel for the fire.

"Many large fires are started out of business hours, often at night. Where premises are not continuously occupied, a named individual should be made responsible for securing the building at the end of each working day. Doors and windows should be secure, alarm systems on, and combustible materials and flammable liquids safely stored away.

"It is not surprising that a significant proportion of businesses fail following a determined arson attack. Preventing or reacting to small incidents can avoid a major loss happening."



Guidance

Essentials for All - Manager Advice from HSE

Advice issued by the HSE covers questions that an owner/manager should be asking to start/check that the business is managing for health and safety. The answers to them give an indication about what the business needs to do next.

Managing for health and safety

This is the approach taken to prevent ill health and accidents. It is about the priority of health and safety in the business; it should be the number one value. It can be a plan, do, check and act/learn approach, in larger businesses it's sometimes a separate h/s management system. It will require the support of those within the business, regardless of the approach taken.

What does a business leader need to do to have a healthy workforce?

- identify the risks
- take stock of how you now stand with your workforce
- assess the risks
- draw up a plan: say what you want to happen; make sure there are systems in place to provide the tools and equipment to do the job; make sure the work is being done safely; listen to problems and successes and make improvements.

Leadership

Effective health and safety performance comes from the top. Workers will expect to meet the standards you set for health and safety. You need to own and understand the key issues and take action accordingly.

Questions for leaders to ask themselves:

- how do I demonstrate this organisation's commitment to health and safety?
- have I arrangements to deal with the real risks the people in my organisation face?
- do I know what is happening in the workplace; what checks are carried out to tell me what's happening?
- how often is there a top-level review to learn from our past performance and plan for the future?

Competence

The advice notes that, when workers are trained to work healthily and safely, they improve productivity, adding more value to your business and take less absence generally and for ill-health or accidents in particular.

Competence is part of good health and safety management. Someone having sufficient training with experience or knowledge to undertake the work required properly is competent.



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Questions to ask:

- do I know everyone has the right training to do their job safely and prevent any health problems?
- have my managers and supervisors the right knowledge and experience to be responsible for health and safety
- have I got the right health and safety advice (competent) for my organisation?

Worker involvement

Involving the workforce is essential to good health and safety performance – and good for business. If you don't involve them, they will think you don't care about them. Importantly, by law, you must consult all employees which will also help in a practical way to identify workplace risks, making sure health and safety controls are practical and increasing the level of commitment to working in a safe and healthy way.

Questions to ask:

- have I asked them if their tasks are difficult to do safely?
- do I ask them what health and safety needs improving and if they have all they need to do the job safely?
- do I take account of employee views when there are changes in the workplace that might impact on health and safety and on arrangements for competent advice?
- when there are changes how does this affect their information, instruction and training?
- do I provide the necessary information and arrangements for the representative who could be elected by their colleagues or appointed by a trade union?
- do I have suitable arrangements in place for consulting my employees, either directly or through their representatives?

Health

Health problems are less obvious than injury issues. According to the advice, four times more days are lost through ill health than through injury. It doesn't always happen straight after an incident, and workers are less likely to tell you about it. Key health issues include: exposure to asbestos, chemicals/dusts, noise, stress, manual handling and vibration.

Questions to ask:

- do I have an occupational health problem in my business and have I taken steps to prevent ill health in my workforce?
- do my workers know what health risks in my business could affect them?



REACH - Guidance from HSE

The HSE has issued three OCs (Operational Circular), giving inspectors advice on the interpretation and requirements of Regulation (EC) no. 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

REACH is concerned with providing a high level of protection of human health and the environment from the use of chemicals and making the people who manufacture and place these chemicals on the market responsible for managing the risks associated with their use. REACH should also allow free movement of substances within the EU market and enhance innovation and competitiveness of the EU chemicals industry. It is supported by a comprehensive suite of guidance material published by the European Chemicals Agency (ECHA).

REACH – Guidance on the Regulation

The first of three OCs explains that, under REACH, each manufacturer or importer into the EU of chemical substances in volumes of 1 tonne or more per year – around 30,000 substances – will have to register them. Registrations are submitted to the ECHA based in Helsinki, Finland, and contain information on the substance's properties, uses and risk management measures. This information must be passed down the supply chain to 'downstream users' so that they know how to use the substances without creating risks for workers, consumers and the environment. REACH restricts the manufacture, importation, supply and/or use of certain dangerous substances, and for other substances of very high concern, use-specific authorisation is required. This will only be granted to companies that can show that the risks are adequately controlled or if social and economic benefits outweigh the risks where there are no suitable alternative substances or technologies. This will encourage substitution for safer alternatives.

The OC includes a table giving the timeline of entry into force of the various parts of REACH. As each of these dates pass, REACH will grow in its application as more substances become registered or subject to other measures, such as restriction or authorisation.

UK enforcement regime for REACH

This OC gives advice to inspectors on the enforcement arrangements for Regulation (EC) no. 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). This OC does not itself provide details of the various duties and obligations created by REACH and so should be read in association with other OCs on REACH.

The REACH Enforcement Regulations 2008 were introduced by Defra, which has the policy lead for REACH, acting with the Department for Business, Innovation and Skills (BIS), the Devolved Administrations for Scotland, Wales and Northern Ireland, and HSE. Defra held consultations in spring 2007 and summer 2008 to establish the principles upon which the enforcement regime would be developed. Following the consultations, the decision was made to enforce REACH through existing enforcement mechanisms, rather than create a new regulator. This means that REACH will be enforced in the UK by enforcing authorities who carry out existing functions in the areas covered by REACH with, as far as possible, their current enforcement powers.

The Enforcement Regulations apply to the whole of the UK. Inspectors should note that neither REACH itself, nor the Enforcement Regulations, are 'relevant statutory provisions' of the Health and Safety at Work etc Act 1974, although the enforcement regime has a similar feel.

The Enforcement Regulations create a self-contained enforcement framework for REACH. They allocate responsibility for REACH enforcement to a number of enforcing authorities, providing them with the powers they need, and requiring them to cooperate and share information with each other. The Regulations also set out the offences and penalties for contraventions of REACH requirements.



Interaction of REACH and COSHH

The third OC notes that REACH and COSHH both impose requirements on the use of hazardous chemicals in the workplace. Although REACH and COSHH should ultimately complement one another, their requirements overlap to some extent and this has the potential to give rise to inconsistencies in their application. This OC aims to identify those areas where COSHH and REACH interact, and to provide guidance for inspectors on how to assess compliance with the requirements of both regimes.

While REACH and COSHH share the same philosophy, in that both regimes have as their objectives the better protection of human health, there are a number of differences in how they set about achieving those ends:

- REACH is a very broad ranging Regulation, and its requirements encompass occupational health and safety, environmental protection and consumer protection; COSHH is focussed solely on the first of these
- COSHH requires all employers to assess the risks to employees' health created by work with hazardous substances, and identify the necessary controls. REACH places the onus of risk assessment and the identification of the necessary controls much higher up the supply chain (on the manufacturer or importer). Because of this, COSHH risk assessments are more likely to be site-specific, while the risk management measures identified by REACH are likely to be more broad-based
- COSHH covers all work activities involving hazardous substances at a workplace, including process derived substances eg fumes, dusts. REACH will not address process-derived substances, but instead addresses the manufacture of a substance and all its identified uses across the EU, provided the substance is manufactured or imported by the registrant at 10 tonnes per year or more
- REACH is substance-driven, and the risk assessments will relate to the use of that substance throughout the supply chain. It is unlikely to take into account the other substances in use on any one particular site or the interactions of different substances in certain processes. COSHH tends to be more process-driven, ie the employer looks at the process being carried out, including existing controls, and then at all the substances used in the process
- REACH exempts a number of substances from REACH entirely, for example, waste, or substances covered by legislation on the carriage of dangerous substances or mixtures. Other substances have partial exemptions from REACH, for example, a substance used in medicinal products.

Although REACH and COSHH should ultimately complement one another, their requirements overlap to some extent and this has the potential to give rise to inconsistencies in their application.

When do the CDM Regulations 2007 apply to a project?

The HSE has issued advice in response to the above question, pointing out that the CDM 2007 Regulations apply to most common building, civil engineering and engineering construction work.

The HSE must be notified of the site if the construction work is expected to either:

- last longer than 30 days
- involve more than 500 person days of construction work.

HSE should be notified in writing before construction work starts; the notification should be sent to the HSE office nearest to the proposed site.



Fit Testing of RPE Facepieces

This updated Operational Circular, published by the HSE, provides practical advice on the inspection of the suitability of RPE (Respiratory Protective Equipment) fit testing methods and the meaning of the results generated.

Where RPE is used as a control measure under Health and Safety Legislation, it is vital that the selected RPE is adequate and suitable. RPE must reduce exposure to as low as reasonably practicable, and in any case to an acceptable level (that is, below any applicable Workplace Exposure Limits or Control Limits). To ensure that the selected RPE has the potential to provide adequate protection for individual wearers, the ACoPs supporting COSHH (Control of Substances Hazardous to Health), CAR (Control of Asbestos Regulations) and CLAW (Control of Lead at Work) stipulate that tight-fitting RPE must be fit tested as part of the selection process. This will help to ensure that inadequately fitting face pieces are not selected for use. Ill-fitting face pieces can create inward leakages of airborne contaminants.

The guidance points out that, for RPE to be suitable, it must be matched to the job, the environment, the anticipated airborne contaminant exposure level, and the wearer. As people come in all sorts of shapes and sizes it is unlikely that one particular type, or size of RPE facepiece, will fit everyone. Fit testing will help ensure that the equipment selected is suitable for the wearer.

RPE fit testing should be conducted by a competent person. Competence can be demonstrated through achieving accreditation under the 'Fit2Fit RPE Fit Test Providers Accreditation Scheme'.

Legal Requirements

The Approved Codes of Practice (ACoPs) supporting the Control of Substances Hazardous to Health Regulations 2002 (COSHH), the Control of Lead at Work Regulations 2002 (CLAW), the Control of Asbestos Regulations 2006 (CAR) and the Ionising Radiation Regulations 1999 require that all reasonable steps be taken to prevent exposure to substances hazardous to health, or where prevention is not possible, to reduce exposure to the lowest level reasonably practicable.



Safe and Successful Firework Displays

Guidance published by the Department for Business, Innovation and Skills, sets out tips for organisers who are mounting firework displays for the general public, which includes information about responsibilities to the public and staff.

Planning Ahead

- set up a committee whose members can each take responsibility for a particular task (including one person to be in charge of all safety arrangements)
- be clear on who will do what and when
- be sure each member has a photocopy of this guide and follows its advice
- try to recruit at least one person with previous experience of firework displays
- fireworks not marked with 'Complies with BS 7114 Part 2 1988' are suitable for use only by persons with specialist knowledge.

Contacting the Right People

- keep the authorities informed of plans
- 5 November is always a busy time for them, so give plenty of warning about plans
- contacts are: the Fire Service, Police, First Aid organisations, Local Authority (check if a storage licence is needed), HM Coastguard (if the display is taking place within five miles of the coast).

Be Prepared

- arrange for fireworks to be delivered and stored securely (and circulate the manufacturers' general instructions to the team)
- animals can be terrified by fireworks. Neighbours, and any local farmers, stables and kennels etc should be warned in advance so they can keep pets indoors and take other necessary precautions
- arrange training covering the various tasks for the night, including all emergency drills
- arrange for first aid posts to be manned by qualified people. Borrow or hire special clothing (bibs, jackets etc) to identify you and your team on the night
- arrange some form of public address system – as a safety measure, not just for commentary. A loud hailer will do as a bare minimum
- arrange for fire extinguishers, buckets of water, buckets of sand and metal litter bins to be available on the night
- check that plenty of electric torches will be available on the night, with full batteries
- publicise the fact that spectators are not allowed to bring their own fireworks (including sparklers) and will not be admitted if they do so
- prepare all necessary signs
- make absolutely sure that you'll have enough people available to help you on the night (including some cover for illness)
- draw up a detailed checklist of tasks and indicate who is to be responsible for each one
- check whether you are adequately insured to cover any firework-related injuries to those present at the display
- vet any traders you intend to allow on the site.

The guidance also covers issues relating to selection of the right location, car parking, and crowd control.



Reports

Tower Crane Incidents Worldwide

Since 2000 there have been five major incidents on UK construction sites that involved the collapse of a tower crane. These five being Canary Wharf in 2000, Worthing in 2005, Battersea in 2006, Liverpool in 2007, Croydon in 2007 and Liverpool in 2009. Subsequent investigation into these incidents by HSE, assisted by HSL, showed that these collapses were due to different causes.

The work behind this report involved identifying tower crane incidents that had taken place around the world between 1989 to 2009 and obtain, where possible, the causes of each incident and the tower crane involved. The intention underlying the research was to use the information obtained to assist in advising and guiding the UK tower crane industry to help improve safety.

Key Findings

A world wide total of 86 incidents involving the collapse or major structural failure of a tower crane have been identified as taking place between 1989 and 2009. The report notes that, one of these incidents took place in the UK in 2009 and further details cannot be released until the conclusion of current investigations and any legal proceedings which might arise from the investigation. Consequently, this incident has not been included in any analysis of the causes of the incidents in this report.

Each of the remaining 85 incidents analysed has been placed in one of the following seven categories as follows:

- erection/Dismantling/Extending of the crane – 29 Incidents (34%)
- extreme Weather – 15 Incidents (18%)
- foundation Issues – 2 Incidents (2%)
- mechanical or Structural Issues – 4 Incidents (5%)
- misuse – 6 Incidents (7%)
- electrical/Control System Issues – 1 Incident (1%)
- unknown Cause – 28 Incidents (33%).

Ten of the world wide total of 86 incidents took place in the UK. The causes of these were dominated by erection/dismantling/climbing and extreme weather.

No particular crane manufacturer has been identified as being more prone to incidents than any other.