

Prosecutions

Worker Dies Two Years after Injury

A Trafford firm has been fined £145,000 after an employee plunged ten metres through a fragile roof onto a concrete floor, and died two years later from his injuries.

J Mills (Contractors) Ltd was prosecuted by the Health and Safety Executive (HSE) for failing to put any safety measures in place to stop 32-year-old Alan Kerwin falling while he was replacing a skylight on a warehouse in Ashton-under-Lyne.

Manchester Crown Court heard that the father-of-one from Lower Broughton, Salford, sustained several serious injuries in the fall on 31 March 2007, including a fractured skull.

Mr Kerwin developed post-traumatic epilepsy as a result of his injuries, and was never able to return to work. He died from an epileptic seizure in April 2009.

The court heard that Mr Kerwin's line manager had received advice from HSE just one week before the incident which could have saved his life. An HSE inspector explained to him how to safely manage work on fragile roofs, but this advice was not acted upon.

The incident occurred at Kayley Industrial Estate on Richmond Street in Ashton-under-Lyne, where Mr Kerwin was working a Saturday shift. He was on the roof with two of his colleagues when he placed his weight on the delicate cement surrounding the glass.

The cement shattered, and Mr Kerwin fell through the gap. **The HSE investigation found J Mills had not carried out a risk assessment or put any safety measures in place to protect him.**

J Mills (Contractors) Ltd, of Higher Road in Urmston, admitted breaching Section 2(1) of the Health and Safety at Work etc Act 1974 by putting workers at risk. The company was ordered to pay £7,700 in prosecution costs in addition to the fine on 31 October 2011.

After the hearing, David Norton, the investigating inspector at HSE, said:

"This is a tragic case in which someone has lost their father as a result of an entirely avoidable incident.

"Falls from height remain the biggest cause of workplace deaths and one of the main causes of serious injury. But Mr Kerwin was allowed to walk across a roof without anything in place to stop him falling.

"Just one week before, Mr Kerwin's line manager was advised by a colleague of mine about the dangers of working at height, and how to protect employees. If he had acted on this advice then I'm confident Mr Kerwin would still be alive today."

Neck Crushed in Machinery

A factory worker was killed when his neck was crushed by a pneumatic hatch on a pet food mixing machine.

H G Gladwell and Sons Ltd, which manufactures animal feed and pet food at Copdock Mill just outside Ipswich, was prosecuted by the Health and Safety Executive (HSE) for failing to ensure the sliding hatch on the top of the machine was safe.

Ipswich Crown Court heard that mill operator/supervisor Terrence Gardiner, 61, who lived in Ipswich was believed to be attempting to retrieve a plastic jug that had fallen into the machine when the incident happened on 19 May 2009.

His workmates found Mr Gardiner lying face down on top of the mixing machine with his head and right arm trapped by the pneumatic hatch. He was pronounced dead at the scene by paramedics.

H G Gladwell & Sons Ltd of Copdock Mill, Ipswich, admitted breaching the Provision and Use of Work Equipment Regulations 1998, Regulation 11 by failing to ensure effective measures were taken to prevent access to the hatch, but this failure was not the cause of Mr Gardiner's death.

The company was fined £14,000 and ordered to pay £20,437.40 costs

Glyn Davies, the investigating inspector at HSE, said:

"There were measures the company could have put in place to prevent access to the top of the mixer, such as sufficient guarding, a remotely positioned operating switch or a grille over the sliding pneumatic hatch itself.

"They singularly failed to implement any of these straightforward protective measures. It is vital that manufacturing firms make sure that dangerous parts on their machines are identified and properly guarded. As we have seen here, machines like these can be incredibly dangerous and no company should take these unnecessary risks."

Fine for Legionella Exposure

A Merthyr Tydfil-based recycling company has been fined for failing to take appropriate measures to control the risk of exposure of its workers and the public to the potentially fatal Legionella bacteria.

The Health and Safety Executive (HSE) prosecuted Merthyr Industrial Services (Biomass) Limited following an investigation of its premises as part of HSE's response to the outbreak of Legionnaires' disease along the Heads of the Valleys corridor in September 2010.

HSE inspectors visited the Penygarnddu Industrial Estate premises on 8 September 2010 and found that over a period of five weeks, the company had sporadically been operating a cooling tower on site without taking appropriate measures to control the risk of proliferation of the Legionella bacteria.

A Prohibition Notice was immediately served preventing the cooling tower from being used until all appropriate controls were put in place.

Merthyr Industrial Services (Biomass) Limited of Penygarnddu Industrial Estate, Merthyr Tydfil pleaded guilty to breaching Regulation 8(1) of the Control of Substances Hazardous to Health Regulations 2002, and Regulation 3(1) of the Notification of Cooling Towers and Evaporative Condensers Regulations 1992.

The firm was fined £600 and ordered to pay full costs of £8,577 at Merthyr Tydfil Magistrates' Court.

The Legionnaires' outbreak was declared on 3 September 2010 and was officially announced as over on 12 October 2010.

The multi-agency investigation revealed that no single source was identified for the outbreak, but investigations suggested a number of different possible sources accounted for the cases.

Speaking after the hearing, HSE inspector Stuart Charles said:

"While it is not alleged this company was one of the sources of the Legionnaires' disease outbreak last year, it is essential that companies operating cooling towers fully understand the risks of Legionella, and the steps they need to take to control that risk.

"Operating a cooling tower, even for short periods, without the proper controls in place can present a significant risk to employees and members of public.

"It is important companies comply with the legal requirement to notify Local Authorities if they are operating a cooling tower. If an outbreak occurs, this information is vital to the Outbreak Control Team when planning a response."

News

Latest Health & Safety Statistics Published

New figures published last week [2 November 2011] show a fall in the number of people injured and made unwell at work.

The statistics published by HSE show that in Britain between April 2010 and March 2011:

- 24,726 major injuries were reported, such as amputations, fractures and burns, to employees - a rate of 99 injuries per 100,000 workers - compared with 26,268 in 2009/10
- 90,653 other injuries serious enough to keep people off work for four or more days were reported - a rate of 363.1 injuries per 100,000 workers - down from 96,427 the previous year
- an estimated 1.2 million people said they were suffering from an illness caused or made worse by their work, down from 1.3 million in 2009/10. Of these, 500,000 were new illnesses occurring in-year
- 171 workers fatally injured - up from 147 the previous year.

The new data confirms that Britain continues to have the lowest rate of fatal occupational injuries in Europe as well as one of the lowest levels of work-related ill health.

The construction (173.2 major injuries per 100,000 employees) and agricultural (221.9 major injuries per 100,000 employees) industries continue to report the highest levels of work-related injuries, with disproportionately high numbers of incidents.

The toll of injury and ill-health resulted in 26.4 million working days being lost, an average of 15 days per case - 22.1 million to ill-health and 4.4 million to injury.

Better Regulation through Better Regulators

Business and Enterprise Minister Mark Prisk has called for a more mature relationship between business and regulators, and the need for a more accountable and transparent system of local regulation and a simpler regulatory landscape.

Addressing the Local & National Regulators annual conference last week [1 November], Mark Prisk highlighted the importance of regulation in creating economic growth and set out a number of proposals for improving the regulatory landscape, building on the relationship between business and regulators, including:

- more use of co-regulation, where business shares a degree of regulatory responsibility, for example through industry bodies setting professional and working standards
- greater 'earned recognition' – where regulators recognise business activities that support compliance and reduce intervention, creating a stronger incentive for private sector led compliance
- a role for Local Enterprise Partnerships (LEPs) to improve the transparency and accountability of local regulation – bringing business and regulators together to look for ways to reduce unnecessary burdens
- clearer, more straightforward guidance – so that businesses, particularly SMEs, have greater access to clear guidance on what they need to do to comply.

Mark Prisk said:

"We understand that Britain's businesses need to concentrate on what they do best – growing their business, creating jobs and driving forward economic recovery. We have made good progress already, reducing the impact of red tape on businesses through the radical system of One-In, One-Out, the three-year micro-business moratorium and the Red Tape Challenge – a wholesale review of the entire stock of regulation.

"But when regulation becomes heavy-handed, inefficient, prescriptive and risk-averse it drags down the ability of businesses to grow, prosper and create jobs.

"It is nonsense to say that there must be a trade-off between protection and growth. That is a simplistic way of looking at a complex issue. The challenge is to transform the regulatory landscape so that the system delivers essential protections whilst avoiding unnecessary interference in the day to day work of hard-working business people seeking to innovate and grow and thereby delivering the jobs and wealth we need."

For its role in delivering better local regulation, Mark Prisk praised the Primary Authority Scheme, which allows businesses spanning local authority boundaries to nominate a particular authority under whose regulatory regime they will operate. He said he would like it to be extended to cover more businesses, more policy areas and deliver more earned recognition for businesses.

The Local Better Regulation Office (LBRO), which administers the scheme, will also be replaced by a new organisation within the Department for Business, which will retain LBRO's independence and draw on LBRO's staff and their expertise.

EU Commission Sets out New Safety Standards for Offshore Oil and Gas Operations

The likelihood of a major offshore accident in European waters remains unacceptably high. With a stringent safety regime it is possible to bring the risk of such an accident down to the absolute minimum. Damage done to the environment and coastal economies can be significantly reduced if an effective emergency response plan is put in place beforehand.

This is why the European Commission has proposed a new law which will ensure that European offshore oil and gas production will respect the world's highest safety, health and environmental standards everywhere in the EU.

Energy Commissioner Günther Oettinger said: "...most oil and gas in Europe is produced offshore, often in harsh geographical and geological conditions. Given our growing energy demand, we will need all the oil and gas from beneath our seas. But we need to prevent accidents like Deepwater Horizon in the Gulf of Mexico from happening. Securing best industry practices in all our offshore operations is an undisputable must. Today's proposal is a crucial step forward towards safer offshore activities to the benefit of our citizens and our environment."

Environment Commissioner Janez Potocnik said: "We have learnt our lessons from last year's Deepwater Horizon accident. These proposed regulation will help us prevent such future crises from happening in all marine waters which fall under EU Member States' jurisdiction. This safety update is good news for the environment, but it's also good news for business which will be able to deploy its operations in a predictable framework. There is ample evidence from past accidents that prevention is better than cure."

The new draft regulation sets clear rules that cover the whole lifecycle of all exploration and production activities from design to the final removal of an oil or gas installation. Under the control of the National regulatory authorities, European industry will have to assess and further improve safety standards for offshore operations on a regular basis. This new approach will lead to a European risk assessment that upgrades continuously by taking into account new technology, new know-how and new risks. It introduces requirements for effective prevention and response of a major accident:

- the licensing authorities in the Member States will have to make sure that only operators with sufficient technical and financial capacities necessary to control the safety of offshore activities and environmental protection are allowed to explore for, and produce oil and gas in EU waters
- independent verifiers The technical solutions presented by the operator that are critical for safety on the installation need to be verified by an independent third party prior to and periodically after the installation starts into operation
- obligatory ex ante emergency planning Companies will have to prepare a Major Hazard Report for their installation, containing a risk assessment and an emergency response plan before exploration or production begins. These reports will need to be submitted to national authorities who will give a go-ahead if satisfied
- inspections Independent national Competent Authorities responsible for the safety of installations, who will verify the provisions for safety, environmental protection and emergency preparedness of rigs and platforms and the operations conducted on them. If an operator does not respect the minimum standards, the competent authority will take enforcement action and/or impose penalties; ultimately, the operator will have to stop his drilling or production operations if he fails to comply
- transparency Comparable information will be made available to citizens about the standards of performance of the industry and the activities of the national competent authorities. This will be published on their websites
- emergency Response Companies will prepare emergency response plans based on their rig or platform risk assessments and keep resources at hand to be able to put them into operation when necessary. Member States will likewise take full account of these plans when they compile national emergency plans. The plans will be periodically tested by the industry and national authorities
- liability Oil and gas companies will be fully liable for environmental damages caused to the protected marine species and natural habitat. For damage to waters, the geographical zone will be extended to cover all EU marine waters including the exclusive economic zone (up to about 370 km from the coast) and the continental shelf where the coastal Member State exercises jurisdiction. For water damage, the present EU legal framework for environmental liability is restricted to territorial waters (about 22 km offshore)
- the Commission will work with its international partners to promote the implementation of highest safety standards across the world
- EU Offshore Authorities Group Offshore inspectors of Member States will work together to ensure effective sharing of best practices and contribute to developing and improving safety standards.

National Driver and Rider Training Standard

A new National Driver/Rider Training Standard (the Standard) sets out the skills, knowledge and understanding required to deliver a programme of driver/rider training for all those types of cars, light vans and machines covered by licence categories A/P and B. It covers delivery of training for licence acquisition and post-test driving/riding programmes, for example, advanced driving.

The Standard assumes that any person wishing to teach somebody to drive/ride has:

- mastered all the competences set out in Roles 1-4 of the DSA Safe and Responsible Driving Standard (Category B) or the DSA Safe and Responsible Riding Standard (Category A/P) - that is, they hold a current driving/riding licence
- demonstrated competence in Role 5 of the DSA Safe and Responsible Driving Standard (Category B) or the DSA Safe and Responsible Riding Standard (Category A/P) - that is, that they have demonstrated that they have maintained and improved their competence, at both the theoretical and practical levels, since they acquired their licence; candidates will be expected to demonstrate at least level three competence in both areas.

The Standard sets out the knowledge, skills and understanding required to deliver learning effectively. It assumes that trainers will deliver agreed syllabuses using a 'client-centred' approach. There is no expectation that trainers will undertake high-level review of those syllabuses.

The Standard recognises that the differing requirements of each category and differing commercial approaches may result in variations in the way a trainer engages with this content. For example it assumes the skills, knowledge and understanding required to work 'in-car' but also acknowledges that some driver/rider training organisations may opt to deliver part of any given syllabus to groups, in a classroom context. The knowledge, skills and understanding required to facilitate such groups has been specified but there is no expectation that all trainers will undertake delivery in this way. For motorcycle trainers, on the other hand, group delivery in a classroom or similar training environment, is a core skill.

This version of the Standard is not definitive. It is expected that the range of units available will be extended, in the future, to cover, for example, specialist areas such as the Equality Act 2010 and the delivery of remedial programmes. Additional units will also be added to cover the particular skills, knowledge and understanding required to train trainers.

Guidance

Preventing Road Accidents and Injuries for the Safety of Employees

Tackling Fatigue: EU Social Rules and Heavy Goods Vehicle Drivers

This factsheet complements the PRAISE Report (published by the European Transport Safety Council) 'Tackling Fatigue: EU Social Rules and Heavy Goods Vehicle Drivers' and looks specifically at the approach of TNT Express to handling fatigue.

It covers the following areas:

- general Road Safety at TNT Express
- tackling Fatigue
- HGV Drivers and Fatigue
- Supply Chain Fatigue Risk Management
- lessons.

Work Equipment - New Machinery

Since 1995 all new machinery in scope of the Machinery Directive has to be designed and constructed to meet common minimum European requirements for safety. The outward signs of compliance are CE marking on the equipment and a document (Declaration of Conformity) issued by the Responsible Person (normally the manufacturer) declaring the product's conformity. To achieve compliance the Responsible Person must undertake a conformity assessment process to meet the Directive's obligations. This includes meeting all relevant essential health and safety requirements (EHSRs) for the product, producing comprehensive user instructions, and showing how compliance has been achieved in the technical file. For certain higher risk products the conformity assessment process will normally require the use of an independent Notified Body.

These requirements have been implemented in the UK by the Supply of Machinery (Safety) Regulations 2008, as amended by the Supply of Machinery (Safety) (Amendment) Regulations 2011. In addition to machinery these requirements also apply to interchangeable equipment, safety components placed independently on the market, lifting accessories, chains, ropes and webbing, removable transmission devices and partly completed machinery. These regulations are enforced by the HSE in Great Britain for most industrial and professional products or local trading standards services for consumer products.

This HSE guidance covers:

- what you must do?
- what you should know about the Machinery Directive?
- amendment of the Machinery Directive: machinery applying pesticides
- the main requirements of the Machinery Directive
- the definition of machinery in the Machinery Directive: what else is in scope of the Machinery Directive?; what is NOT in scope of the Machinery Directive?
- who has responsibilities under the Machinery Directive?
- essential health and safety requirements of the Machinery Directive
- conformity assessment under the Machinery Directive.

Reports

Organising Firework Displays

Firework displays obviously need some responsible planning. This guidance has been issued by the HSE to help.

If you are organising a major public event, you will clearly need a robust and detailed approach to planning as well as professional involvement. If you are holding a local firework display, such as those organised by many sports clubs, schools or parish councils, you still need to plan responsibly, but the same level of detail is not necessary or expected.

Before the event:

- think about who will operate the display. There is no reason why you should not light a display yourselves provided it only contains fireworks in categories 1, 2 and 3. Category 4 fireworks may only be used by professional firework display operators
- consider whether the site is suitable and large enough for your display, including a bonfire if you are having one. Is there space for the fireworks to land well away from spectators? Remember to check in daylight for overhead power lines and other obstructions. What is the direction of the prevailing wind? What would happen if it changed?
- make sure there is someone who will be responsible for calling the emergency services should something go wrong
- ensure you obtain the fireworks from a reputable supplier.
- if the display is to be provided by a professional firework display operator make sure that you are clear on who does what especially in the event of an emergency
- ensure you have a suitable place to store the fireworks. Your firework supplier or local authority should be able to advise
- if you plan on selling alcohol the bar should be well away from the display site.

On the day of the event:

- recheck the site, weather conditions and wind direction
- don't let anyone into the zone where the fireworks will fall – or let anyone other than the display operator or firing team into the firing zone or the safety zone around it
- discourage spectators from bringing drink onto the site
- don't let spectators bring their own fireworks onto the site
- if there is also to be a bonfire at the display then you should: check the structure is sound and does not have small children or animals inside it before lighting it; not use petrol or paraffin to light the fire; have only one person responsible for lighting the fire. That person, and any helpers, should wear suitable clothing
- make sure that the person lighting the fire and any helpers know what to do in the event of a burn injury or clothing catching fire
- never attempt to relight fireworks. Keep well clear of fireworks that have failed to go off.

The morning after:

- carefully check and clear the site. Dispose of fireworks safely. They should never be burnt in a confined space (e.g. a boiler).

For major displays, particularly those involving category 4 'professional' fireworks or very large number of spectators, a more robust approach is obviously needed. Issues to consider include the following:

- plan and mark out the areas for spectators, firing fireworks (and a safety zone around it) as well as an area where the fireworks will fall
- think about how people will get into and out of the site. Keep pedestrian and vehicle routes apart if possible. Mark exit routes clearly and ensure they are well lit. Ensure emergency vehicles can get access to the site
- appoint enough stewards/marshals. Make sure they understand what they are to do on the night and what they should do in the event of an emergency
- contact the emergency services and local authority. If your site is near an airport you may need to contact them
- signpost the first aid facilities.

In terms of insurance, although it is not required by health and safety law, if you are holding a public firework display, it's a good idea to have public liability insurance.

Alcohol, Work and Productivity

This report summarises the most recent scientific evidence on links between harmful drinking and productivity or employment, and on the workplace as a locus for addressing harm from alcohol. The report also looks at concrete workplace interventions.

The report notes that alcohol is a significant risk factor for absenteeism and presenteeism at work, largely in a dose response manner, with a relationship between societal and individual level of alcohol consumption and sickness absence. Often forgotten is the impact of drinkers on the productivity of people other than the drinker. An Australian study found this to be comparable in cost size as the lost productivity costs of the drinkers themselves. The work place itself also impacts on alcohol related harm. Certain occupations (in particular bar staff and sea workers) are at particular risk, and, in general, stressful working environments increase the risk of alcohol-related harm.

Wider deployment in more workplace settings

Given the lack of a robust evidence base for workplace based alcohol activities that focus on individual counselling, the report suggests focussing on activities under the umbrella of well-being at work initiatives, particularly those that focus on presenteeism, and those that bring a good return on investment, with core components including structural factors and management and leadership styles. Increasing the extent of alcohol free workplaces will result in reductions of alcohol-related work place accidents and injuries, as well as creating a culture for a more healthy relationship with alcohol that impact on families and friends through social networks.

The report highlights three occupational target groups (these are based on known rates of alcohol-related mortality):

- those working in the retail alcohol trade
- labourers in the construction industry
- seafarers and dockers.

Two population target groups also stand out for action: the young, because they suffer from both differential high rates of unemployment and risky drinking, compounded by the stresses when joining the labour market, and, the middle age because they have the absolute highest rates of alcohol-related disability and premature death.

Addressing alcohol-related harm in the workplace

The workplace represents a useful access point for health promotion, including addressing alcohol-related harm. Various approaches exist, ranging from legislation to prevention efforts and interventions implemented by individual employers. However, a common workplace policy on drinking does not exist at EU level and action is largely left in the hands of individual employers. As a result, workplace interventions are inconsistent and, in many instances, altogether absent.

Employers can play an important role in reducing alcohol-related harm through the workplace by putting into place comprehensive measures that include clear policies around alcohol in the workplace, as well as screening, education, and interventions aimed both at problem drinkers in the workforce and at changing the workplace culture.

Comprehensive guidelines for alcohol policies in the workplace exist and many large employers already have measures in place to reduce alcohol-related harm among their employees. This report includes an overview of how one industry – producers of alcohol beverages and members of the Alcohol and Health Forum – has implemented workplace policies and applied interventions to address employees at risk, high-risk settings, and education among its employees. However, a broader overview of workplace practices across the EU is needed, which would examine efforts to reduce alcohol-related harm in other industries, among government employees, and among those working in NGOs and civil society organisations.

The Silent Killer costing £178 million a year

Every year, over 4,000 people are poisoned by carbon monoxide. It is a colourless, odourless and tasteless gas, which can prove fatal in the home, workplace, or even outside.

This recently launched report is the result of a six month parliamentary inquiry. It examines how we can mitigate the toll carbon monoxide (CO) poisoning takes on our health, our lives and the NHS budget.

Baroness Finlay of Llandaff, Chair of the All Party Parliamentary Gas Safety Group inquiry said:

"Low-level carbon monoxide poisoning is a constant risk to us all. Because the gas is so difficult to detect, and the symptoms (such as headaches) so common, many people may be poisoned without knowing it. Moreover, a crude calculation suggests that the effects of such poisoning are currently costing the NHS £178 million a year.

"But as this report shows – changing this situation is relatively easy. Carbon monoxide alarms must become as common as fire alarms, everyone needs to be CO aware. One take-away cup of coffee costs more than one year's protection by a CO alarm!"

To achieve this, the report calls for the cooperation of Government, industry and the health sector so that we can improve detection, raise awareness and develop better regulation.

Last month, figures revealed by the Department for Health suggested that every year, carbon monoxide poisoning results in 4,000 people being diagnosed with low-level poisoning, 200 being admitted to hospital, and 50 people dying. The actual number of people affected is actually thought to be far higher, but currently undetected because of a lack of awareness amongst the public, as well as the difficulty of diagnosis due to the common nature of the symptoms. The long-term effects of CO poisoning are not yet fully explored, but are thought to range from long term brain damage to death.

Moreover, carbon monoxide can easily be produced. At home, the most common sources are faulty boilers or badly ventilated ovens. For Gas Emergency Services and Ambulance personnel, the workplace poses a hazard, and during our leisure time, the report points to the spate of camping incidents when individuals have taken barbecues into their tents causing fatalities.

The report by the All Party Parliamentary Gas Safety Group suggests that poisoning can be prevented if government, the health service and industry collaborate to raise awareness amongst the public, develop better regulation and improve detection.

For example, the report recommends that:

- the Government should trial GPs prescribing a Gas Safety Check for suspected carbon monoxide cases
- ambulance Services should ensure that all their operatives have the equipment to monitor for carbon monoxide in the pre-hospital environment

Additionally, it is recommended that industry collaborate with the Medical Research Council and other research funding bodies to:

- support studies that attempt to evaluate the prevalence of carbon monoxide poisoning across different population groups
- set up a longitudinal study to assess the sequelae of acute and low-level exposure to carbon monoxide poisoning
- facilitate a study of the neurological effects of repeated exposure to carbon monoxide at low-levels.