



## Prosecutions

### Asbestos Exposure Fine

A Bristol-based company has been fined for putting its workers at risk of asbestos-related diseases while working on a property in the city.

Frank Bruce and Company Ltd, of St George, Bristol pleaded guilty at Bristol Magistrates in relation to refurbishment work at Lawrence Hill Industrial Park in the city during February and March 2009.

The court heard Health and Safety Executive (HSE) inspectors visited industrial units where the defendant had organised refurbishment work involving the removal of a large quantity of asbestos insulation board without taking statutory safety precautions.

This led to exposure of the workers to the asbestos and also the contamination of the units being renovated.

The court heard the company plead guilty to breaches under Regulation 14 of the Construction (Design and Management) [CDM] Regulations 2007 by failing to appoint a CDM-coordinator or principal contractor for notifiable construction work and Regulation 4 (10) of the Control of Asbestos Regulations by failing to review or implement a plan to manage materials containing asbestos.

Frank Bruce and Co was fined £18,000 for breaching the regulations and ordered to pay £6,679 costs.

Speaking after the hearing, HSE Inspector Sue Adsett said: "The decision not to have large quantities of asbestos insulation board removed by licensed contractors before the general refurbishment work began, put the workers at risk and contaminated the site.

"The work was stopped and the defendant paid to make the site safe, but this doesn't change the fact that seven construction workers were exposed to asbestos, which we know can cause fatal diseases.

"Landlords and property developers need to be very wary of organising construction work themselves if they haven't got appropriate experience of managing health and safety in building projects."

Around 500,000 buildings built before 2000 could contain asbestos, according to HSE estimates. If managed properly and kept in good condition, asbestos need not pose safety concerns.

Landlords need to arrange for 'Type 3' surveys to be done before refurbishment or demolition and pass this information on to builders before asking them to start work. Some asbestos products - such as Asbestos Insulation Boards or Asbestos Insulation - can only be removed by specially licensed contractors.

### **Salus Be Wise**

Asbestos exposure is the greatest single cause of work-related deaths in the UK (HSE, 2008). Every year 4,000 people die of work-related asbestos diseases, of which around 1,000 occur to tradesmen who worked in the building or maintenance trade.

The broad requirements on duty holders under the Control of Asbestos Regulations 2006 in respect to asbestos management are to:

- take reasonable steps to determine the location of materials likely to contain asbestos
- presume materials contain asbestos, unless there are good reasons not to do so
- make and maintain a written record of the location of the asbestos and presumed asbestos materials
- monitor the condition of asbestos and presumed asbestos materials
- assess the risk of exposure from the asbestos and presumed asbestos materials and document the actions necessary to manage the risk
- take steps to see that the actions above are carried out.



The new asbestos survey guide, HSG 264, which replaces the existing guide for bulk sampling of asbestos in commercial and domestic properties (MDHS 100) has been released and is available here on the Barbour service.

Other Barbour Tools available to help with your Asbestos needs include:

- asbestos model policy
- asbestos management guide
- asbestos forms and checklist
- management overview to Asbestos
- toolbox talks (for managing your workforce).

### Fall from Height Fine

A Bolton house-building company has been fined £7,500 after one of its workers fell to his death.

DC Kennedy Homes Ltd was prosecuted by the Health and Safety Executive (HSE) after Ian Smith, 64, was killed when he fell from an unstable ladder.

Manchester Crown Court heard that Mr Smith was working on a project to build six new semi-detached houses in Dale Gardens, on Easedale Road in Bolton, on 19 December 2007 when he fell five metres to the ground.

HSE's investigation found that DC Kennedy Homes had allowed work to be carried out on the first and second floors of the house, before the stairs had been fitted. The ladder, which was used to reach the second floor, had not been secured and was missing its rubber feet.

DC Kennedy Homes, of Ladybridge Lane in Bolton, pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974 by failing to ensure Mr Smith's safety. The company was ordered to pay an additional £7,500 towards the cost of the prosecution as well as the fine.

Polly Tomlinson, HSE Principal Inspector for Greater Manchester, said:

"This was a tragic incident that could easily have been prevented if DC Kennedy Homes had put more thought into the safety of its employees.

"The ladder Ian Smith used was dangerous as the rubber feet were missing and it wasn't tied to the wall to stop it slipping.

"But more importantly, Mr Smith should never have been expected to use a ladder in the first place. If the work had been planned properly, the stairs would have been fitted before work was carried out on the first and second floors of the house.

"Instead Mr Smith had to use a ladder to access the second floor, putting his life at risk. Other employees were also put in danger by the unprotected open edges.

"I hope this case will act as a warning to other house building companies to improve their safety standards, to prevent more people dying at work in the future."

### Gas Safety Breaches - Landlord Fined

An Oxfordshire landlord has been prosecuted for failing to ensure gas appliances in his property were safe and fit for purpose.

The Health and Safety Executive (HSE) brought the prosecution against Graham Barnes, 49, from Bicester Road in Kidlington after he failed to have gas appliances at the Didcot property he rented out, safety checked.

Didcot Magistrates Court heard that between January 2009 and July 2009 Mr Barnes failed to arrange the annual safety check to be carried out on gas appliances and flues at a residential property he owned; and also failed to maintain gas appliances at the same property.

He was fined a total of £8,000 and ordered to pay £1,957.70 in costs, with £15.00 victim surcharge.



All landlords are subject to the provisions of the Health & Safety at Work etc Act 1974 and Mr Barnes was charged with contravening Regulations 36(3)(a) and 36(2) of the Gas Safety (Installation & Use) Regulations 1998.

Despite being warned by a gas installer on 11 February 2009 there were defects in the appliances, he failed to address the problem and the gas boiler was condemned on 09 June 2009.

Mr Barnes pleaded guilty to not ensuring gas appliances at the property in Medlock Grove, had an annual safety check, resulting in leaked carbon monoxide into the kitchen.

After the hearing, HSE Inspector Dozie Azubike said: "This is a clear case of a landlord ignoring his responsibilities and thereby putting people at risk.

"As a result of the boiler not being serviced, carbon monoxide leaked into the kitchen creating a very dangerous environment. This was on top of a warning that the defendant had received from the gas installer that there were defects in the appliances."

## News

### New Law Placing Safety Duties on Directors?

A new law to place legally binding, explicit safety duties on company directors has been called for in a House of Commons debate. The Health and Safety (Company Director Liability) Bill was put forward by Aberdeen North MP Frank Doran.

Commenting on the existing voluntary code, produced by the Institute of Directors, he told MPs: "Despite the enthusiastic reception of the code by business organisations, the majority of companies have not implemented its recommendations.

"The voluntary approach is not working, so more encouragement is needed to persuade employers to take health and safety much more seriously. Further research commissioned by the HSE shows how important legal regulation is in comparison with the voluntary approach."

The MP said his Bill "will place a positive duty on all company directors to take all reasonable steps to ensure health and safety in all aspects of the company's activities - effectively to put them in the same position as all other employers and to remove a glaring anomaly in our health and safety laws. The evidence clearly shows that this will save the lives and livelihoods of people across the UK".

The Bill is scheduled to receive a second reading on 23 April 2010. The TUC, trade unions, personal injury lawyers, health and safety campaigners and victims' advocates have all called for explicit legal safety duties on company directors.

### New British Standard for Stress

The British Standards Institute (BSI) and Nottingham University are to develop a good practice guidance standard to help those assessing and managing the risks associated with work-related stress.

In 2007/08 an estimated 442,000 individuals in Britain, who worked in the last year, believed that they were experiencing work-related stress at a level that was making them ill. Around 13.6% of all working individuals consider their job very or extremely stressful.

Employers have a legal duty of care to their employees, and injury to mental health is treated in the same way as injury to physical health. Psychosocial risk management (the management of risks associated with work organisation and the social context of work which have the potential for causing psychological or physical ill health) forms part of the European Council Directive 89/391/EEC, which stipulates the assessment and management of all types of risks to workers' health as employers' responsibility. At present, there is no recognised standard or official benchmark for good practice for psychosocial risk assessment and management. The new BSI standard, called a PAS (Publicly Available Specification), aims to help assessors address this area of workplace health.

The standard, and accompanying training courses to be developed by Nottingham University, will be aimed at HR managers, occupational health and safety managers, therapists, and managers of small and medium-sized enterprises.



BSI is leading the development of the standard with a steering group which includes representatives of Nottingham University, the World Health Organization, the Health and Safety Executive, the PRIMA-EF consortium, the European Commission and several other European and international occupational health and safety organisations.

### Load Safety - Planning

The HSE is focusing on the planning element of their Load Safety campaign, highlighting that loading plans can help to flag up issues before they become problems.

Things to be considered will vary but could include:

- whether the driver will witness loading
- who will apply the load restraints and what they should be
- how the load will be placed on the trailer bed
- who will unload the vehicle and what equipment will be required
- who the driver should report to on arrival
- what the driver should do if the load shifts during the journey.

The consignor – the person responsible for sending the load – is responsible for ensuring that the load is loaded so that it does not present a danger to others. It is important that the driver knows how the load has been secured, especially if he has not seen it loaded. This information should also be available to the delivery site.

#### *Planning*

Time spent thinking about safe loading can help prevent all the problems of an unsafe load. The HSE advise to:

- have the correct equipment on the premises to load vehicles safely
- prepare a loading plan for each journey, to include information about: how the load is to be secured; and the location and layout of each delivery site, including unloading equipment and facilities.

The delivery plan should travel with the load. The HSE also advise to look at what other companies are doing and implement any good ideas. All 'near miss' incidents should be reported, and training should be readily available from employers.

## Guidance

### Tower Cranes Regulations - Guidance

The Notification of Conventional Tower Cranes Regulations 2010 (the 'Regulations') come into force on 6 April 2010. Under these regulations, certain information about conventional tower cranes used on construction sites must be notified to the HSE.

This information leaflet sets out:

- the types of tower crane that need to be notified to HSE
- who needs to ensure notification is made
- when the notification needs to be made
- what information needs to be notified
- how the information should be notified.

The Regulations require conventional tower cranes used on construction sites to be notified to the HSE.

All conventional tower cranes erected on construction sites need to be notified to the HSE. That is, all such cranes used to construct new buildings and structures or refurbish or demolish existing ones.

The HSE should be notified within 14 calendar days from, and including, the date of any thorough examination of the conventional tower crane required by LOLER (Lifting Operations and Lifting Equipment Regulations 1998). Namely:



- following the crane's installation and before being put into use for the first time on a particular site
- when the crane is reconfigured on site, eg when the height of the mast is altered
- when the crane stays on-site long enough for the existing thorough examination to expire
- if exceptional circumstances liable to jeopardise the safety of the crane have occurred.

In each of these circumstances, the crane can be used as soon as it has been thoroughly examined. The Regulations do not prevent a crane's use in the 14-day period after its thorough examination within which notification is required.

## Reports

### Electricity-Related Accidents

The nature of electricity-related accidents in Great Britain was investigated to identify key risk areas. RIDDOR accident data, reported to the HSE between 1996/97 and 2002/03, was defined on the basis of including only those accidents whose industries, accident kind, occupation, work process or agent is related to electricity.

The data set includes those accidents that involve those working with or around electricity. This provides a broad data set that includes those workers that have suffered handling/sprain injuries, trips or falls whilst undertaking electricity related work as well as those injured through contact with electricity.

Electricity-related accidents were identified by:

- industry, accident kind, occupation, work process, and agents that correspond to those identified for the electricity-related accidents
- either the notifier comment or the investigation summary report containing a term relating to electricity.

In all, 56,597 electricity-related accidents were reported over the last seven years. Over this time, around 5,000 accidents were reported as involving contact with electricity. However, over 56,000 reported accidents could be classified as being electricity related. Around 6% of the total number of fatal injury accidents reported in Great Britain over the last seven years resulted from contact with electricity, whilst around 10% of all fatal injuries were electricity related.

The largest number of electricity-related accidents were reported in the electrical wiring installation industries. Significant numbers of accidents were also reported in the construction building and telecommunications industries.

### Exposure to Stainless Steel Welding Fume

The aim of this project was to visit a representative group of workplaces carrying out welding of stainless steel, scoping the various control strategies proposed in COSHH Essentials for welding, hot work and allied processes. Compliance with good occupational hygiene was assessed and recommendations made for improving controls and monitoring. In addition, the work sought to collect information on current stainless steel welding processes and exposures and assess the utility of biological monitoring as an exposure assessment tool for stainless steel welding. The outcome of the project is described in this HSE report.

#### Findings

- approximately 30% of the companies surveyed by telephone use no Local Exhaust Ventilation (LEV) for stainless welding at any time. More than two thirds of these companies did not conduct any form of health surveillance
- the organisations surveyed were almost all Small to Medium Enterprises (SMEs), with an average of 6 workers welding stainless in each company, although not all of these would weld stainless exclusively
- a total of 10 site visits were made to 8 different companies. These revealed: breaches of occupational exposure limits were uncommon, even where exposure control strategies were judged to be inadequate; a significant proportion of companies were not controlling stainless welding fume exposures in accordance with COSHH essentials welding guidance
- a significant proportion of sites welding stainless steel have adequate exposure controls available, but for various reasons these controls are not used or are used incorrectly. Reasons for this include a reluctance to regularly reposition the LEV hood as the job progresses and a common misconception that LEV can affect the weld quality such that LEV is not used or positioned so far away from the weld that it is not effective



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- there have been no significant changes in welding practices, or the use of exposure controls, since the previous study on stainless welding, carried out in 1999
- biological monitoring results above the Biological Monitoring Guidance Value (BMGV) were generally associated with exposure controls that could be improved
- biological monitoring results showed that exposure can be well controlled by use of Respiratory Protective Equipment (RPE).

### **Development of a Web-Enabled Framework for Probabilistic Exposure Assessments**

Existing methods for assessing occupational risks from chemical exposure are generally deterministic and feature unplanned variability and uncertainty. Probabilistic exposure assessments, where worst-case values are replaced with distributions representing real variation or uncertainty in the quantities, offer an opportunity for more informed risk assessment.

This HSE report describes the development of a web-based probabilistic model (PROWESE) for predicting the distribution of systemic exposure (dose) to chemicals following occupational use.

Specific features of the model and model outputs are set out in the report. Recommendations are made which include a second phase of development to extend the web-based framework in order to calculate cumulative systemic exposure to a single chemical from multiple sources, for example occupational exposure and exposure to consumer products. It is noted that access to the model is currently limited to HSE staff, however no further development would be required to allow full public access. It is recommended that the HSE and HSL explore possible opportunities for cost recovery through commercialisation.