

## Prosecutions

### Building Company Fined after Construction Worker Seriously Injured by Falling Stone

**A 56-year-old self-employed construction worker suffered a serious head injury and permanent personality changes after a 10kg stone fell nearly three metres hitting him on the head at a building site** in Abbots Leigh, near Bristol.

North Somerset Magistrates' Court heard that Paul Hinton of Bristol had been hired by Elegance Building Contractors Ltd. to work at a domestic property on 6 September 2010. The work included raising the roof level of the building and cladding part of the property with feature stonework. **The construction worker was not wearing a hard hat at the time of the incident.**

Mr Hinton was airlifted to hospital by air ambulance and was off work until early May 2011. **The company used subcontractors for the work but failed to ensure brick guards were installed on the scaffolding, which are designed to stop materials falling below.**

Speaking after the case, Health and Safety Executive Inspector, Mark Renouf, said: "This tragic incident could easily have been avoided if the brick guards or similar had been fitted to the scaffold.

"Mr Hinton has suffered major injuries and the incident could very well have led to a fatality. The use of hard hats was not common on this site however the greater failing is not stopping materials from falling in the first place.

"Building companies must learn from this case and make sure basic safety precautions are observed on sites."

Elegance Building Contractors Ltd, of Princess Victoria Street, Bristol, pleaded guilty to a breach of Regulation 10 (1) of the Work at Height Regulations 2005 and was fined £6,000 and ordered to pay costs of £4,733 at the hearing on Friday 23 September.

### County Durham Firm Fined after Worker Crushed to Death

County Durham engineering firm has been fined £100,000 after a worker was crushed to death while clearing a jam on a production line. Father-of-two Paul Clark, 52, of Newton Aycliffe, was a multi-skilled fitter at Tallent Automotive Ltd-Gestamp Automocion (formerly ThyssenKrupp Tallent Ltd), where he died on 8 July 2009 after becoming trapped between a moving carriage and its tracks.

An investigation by the Health and Safety Executive (HSE) found that a pneumatically-powered carriage, part of a large press which produced chassis components, had jammed. The carriage, known as a destacker, was used to remove empty magazines which had previously contained metal blanks, away from the press.

Mr Clark was attempting to clear the jam after the carriage had stopped halfway along its tracks. He had opened the interlocked safety gates to gain access within the fenced enclosure of the machine. This isolated the equipment from the electricity supply, but did not isolate and make safe the pneumatic power element of the machine. The equipment for controlling movement of the carriage was located within the tracks the carriage ran on, which meant he had to work in a dangerous area in order to try and establish the cause of the jam.

While working on the equipment between the tracks, the carriage moved suddenly and trapped Mr Clark between the carriage and the support structure at the end of the tracks. He died as a result of traumatic asphyxia due to crush injuries.

**The HSE investigation found that there was no safe system for carrying out work within the destacker area, as the pneumatic power for the machinery was not isolated before entering the interlocked enclosure. Although the electrical hazards were recognised by the company, the risks from the pneumatically operated equipment were not.**

It was also found that the controls for adjusting the destacker carriage were located in a position of danger. There was also insufficient information available to Mr Clark to show how the pneumatic supply worked and how he could safely make the necessary adjustments.

### Demolition Firm Fined for Maesteg site Asbestos Failings

A demolition contractor has been fined after exposing workers to potentially deadly asbestos fibres at the former Revlon factory in Maesteg.

An investigation by the Health and Safety Executive (HSE) found Walsh Plant Hire and Demolition Contractors Ltd of Pontypridd ignored repeated warnings to manage the safe removal of asbestos during work on the demolition of the site.

Bridgend Magistrates Court heard the company was first served with a Prohibition Notice ceasing activity at the site in February 2010, because work to remove asbestos cement sheeting debris was likely to generate asbestos dust which could have posed a health risk to those working at the site.

Before resuming work, the company was required to produce a plan for the safe removal of the materials to make sure it was properly managed.

A management plan was developed to keep the asbestos cement in a safe condition by damping down the waste until it was removed from the site. However, a further visit by the HSE on 27 May 2010 found the company had ignored the guidelines in its own plan, as the site was dry, and no damping down had been undertaken for a week.

Excavators were also found to be moving rubble contaminated with asbestos-containing debris, and tracking over asbestos cement fragments, potentially contaminating workers with asbestos dust.

Walsh Plant Hire and Demolition Contractors Ltd, of Unit 6, Old Parish Road, Ynysybwl, Pontypridd, pleaded guilty to breaching Regulation 7(5) of the Control of Asbestos Regulations 2006. The company was fined £5,000 and ordered to pay full costs of £6,828. After the hearing, HSE inspector Phil Nicolle said:

"The company was well aware of what it should have done to ensure the health of its workers and others when working with asbestos-containing materials at the site.

"HSE had taken previous enforcement action to ensure the company had a plan of work to manage the asbestos material safely. This plan was prepared but then ignored by the company."

### Forklift Worker Suffers Head Injury in Leigh

A worker could have been killed when he fell off a forklift truck in Leigh while trying to climb onto its roof, a court has heard. The 29-year-old man from Tyldesley, who has asked not to be named, struck his head on the ground and was knocked unconscious for several minutes in the incident at Moss Industrial Estate on St Helens Road in Leigh.

His employer, Serviceplan Contracts Ltd, was prosecuted by the Health and Safety Executive (HSE) for failing to make sure the work was planned, supervised and carried out safely. Trafford Magistrates' Court in Sale was told the worker had been trying to climb on the roof of the forklift to carry out work to the lifting equipment on 3 August 2010. He suffered severe headaches, a painful swelling to his head, and was off work for one week as a result of the fall.

**The HSE investigation found it was common practice for Serviceplan's employees to service the lifting mast and chains on a forklift truck by climbing on top of it. However, they should have been given a stepladder or mobile steps to use to reach the equipment safely. Some of the work could also have been carried out from the ground.**

Serviceplan Contracts Ltd admitted breaching Regulation 4(1) of the Work at Height Regulations 2005. The company, of Smallbrook Lane in Leigh, was fined £1,000 and ordered to pay £1,000 in prosecution costs on 30 September 2011.

### **Kent Factory Fined after Worker Suffers Severe Head Injuries**

A cardboard box manufacturer in Kent has been fined after an incident in which a delivery driver suffered severe head injuries after a fall.

As a result, the Health and Safety Executive (HSE) brought a prosecution against W.E. Roberts (Corrugated) Ltd which is based at Thames Works, Grove Road, Northfleet, in Kent.

The incident took place on 27 August 2009 when the worker was delivering flat-packed cardboard boxes to an address in Eastbourne.

**The man was trying to pull a pallet of cardboard boxes across his trailer from the driver's side to the curb side. The pallet strapping snapped and the worker fell nearly three metres backwards and 1.5m down onto the pavement.**

As a result he suffered severe head injuries, which have had life-changing effects and have meant he is still not able to return to work. After the hearing, HSE Inspector Michelle Taylor said:

"The company failed to adequately consider the risks that delivery drivers face when they are not on site. This led to this severe and entirely preventable incident which has had such a long-lasting and devastating effect on this worker.

"The outcome of this case reinforces the responsibility that employers have to all of their workers, wherever they are, not just those on site under constant supervision."

At Dartford Magistrates' Court, (on 28 September) W.E. Roberts (Corrugated) Ltd pleaded guilty to breaching section 2(1) of the Health and Safety at Work etc Act 1974. The company was fined £20,000 and ordered to pay costs of £12,190.

### **Worker's Fingers Severed by Wood Cutting Machine**

The thumb and fingers on a worker's right hand were cut off while he was using a firewood processing machine at a Shropshire farm, a court heard.

The Health and Safety Executive (HSE) prosecuted farmer Richard Griffiths, of Town Cottage Farm, Hughley, after the 16 December 2010 incident that left 26-year-old agency worker Stuart Tomlins with life-changing injuries.

Shrewsbury Magistrates' Court heard that Mr Tomlins, from Craven Arms, was trying to straighten a log that had become twisted in the machine's splitting chute.

**As he put his right hand inside the chute, the hydraulic splitting ram, which pushes logs onto a blade activated, pushing his hand through the blade along with the log, severing his thumb and all four fingers.**

He was airlifted to hospital, where surgeons reattached his thumb but could not reattach his fingers. The court heard he is still undergoing medical treatment and it is not known what use he will have of his injured hand. HSE's investigation into the incident found that the splitting control lever on the machine had previously been forced, enabling the machine to run with the splitting chute guard open. This meant that the operator could reach the machine's dangerous moving parts.

Mr Tomlins, who had no previous experience of working on firewood processing machines, was not properly trained or supervised. He had only been working at the farm for a couple of weeks before the incident and had been instructed to use the machine with the guard in the open position.

Mr Griffiths pleaded guilty to breaching Section 3(1) of the Health and Safety at Work etc Act 1974 and Regulation 5 of the Provision and Use of Work Equipment Regulations 1998. He was fined £14,000 in total and ordered to pay £8,500 costs.

### News

#### **Cameron: Health and Safety is 'Holding People Back'**

The prime minister has again described the application of health and safety laws as a barrier to enterprise, during his keynote speech to delegates at the Conservative Party conference in Manchester.

David Cameron's comments appeared to contradict the Government's recent lament at the use of health and safety as an excuse to hide unpopular decisions behind, and its insistence that correctly-applied health and safety legislation is a force for good.

He told delegates that the Conservatives valued community spirit and social action, adding: "That's why we're giving neighbourhoods new powers to take over the running of parks, playgrounds and pubs."

However, in describing the obstacles to volunteering, he suggested that "the shadow of health and safety" is holding people back from such activities. He said: "I was told recently about a school that wanted to buy a set of highlighter pens. But, with the pens, came a warning: not so fast – make sure you comply with the Control of Substances Hazardous to Health Regulations 2002, including plenty of fresh air and hand and eye protection. Try highlighting in all that!

"This isn't how a great nation was built. Britannia didn't rule the waves with arm-bands on. So, the vetting and barring scheme – we're scaling it back; CRB checks – we're cutting them back. At long last, common sense is coming back to our country."

IOSH reacted with disappointment to the speech. Head of policy and public affairs, Richard Jones said, "We think it's a shame that the prime minister's speech mistakenly cites health and safety as "holding people back" – the opposite is true!

**"Good health and safety enables enterprise and volunteering to happen successfully and so helps ensure sustainability and growth. It's all about good sense and proportionality and we simply don't recognise the negative picture being painted here – it isn't real health and safety."**

### 80mph Limit to be Introduced in the UK

Transport Secretary Philip Hammond has announced his intention to consult on raising the national speed limit on motorways from 70 to 80 miles per hour. The Government plans to launch a full public consultation on the issue later this year with a view to implementing any change in early 2013.

Vehicles have changed dramatically since the current national speed limit was set in 1965. Technological advances mean that cars are significantly safer than they were - contributing to a fall of more than 75% in the number of people killed on British roads since 1965. That is why the Government feels it is now time to look again at whether the speed limit set in 1965 is still appropriate.

Road safety is a top priority for the Government and action is being taken to tackle uninsured driving and help police enforce against drink and drug driving. However, the Government believes safety cannot be the only consideration when setting speed limits. Previous analysis shows that raising the motorway speed limit would generate significant economic benefits, worth hundreds of millions of pounds per year from savings of travel time.

Initial work by the Department suggests that setting the motorway speed limit at 80 mph is likely to represent the best balance of costs and benefits and it is similar to the motorway speed limit in other EU countries.

As many as 49% of drivers currently break the 70mph limit. Ministers believe that raising the limit to 80mph would mean that millions of otherwise law-abiding motorists would be brought back inside the boundary, restoring the moral legitimacy of the system.

Philip Hammond said: "I want to make sure that our motorway speed limit reflects the reality of modern vehicles and driving conditions, not those of 50 years ago.

"While we must ensure that our roads remain among the safest in the world, we must also consider the huge economic benefits that can be created by shortening journey times.

"Increasing the speed limit on motorways from 70 to 80 miles per hour for cars, light vans and motorcycles could provide hundreds of millions of pounds of benefits for the economy and I will put forward formal proposals for making these changes later this year."

### **Rospa Welcomes Road Casualty Reductions But Urges Caution**

As detailed road casualty figures for Great Britain are published, RoSPA welcomes the significant drops in death and injury but cautions that the success is partly due to unusual economic and weather factors which may not continue in coming years.

Figures published by the Department for Transport today show that 1,850 people were killed in reported road accidents in Great Britain during 2010, a reduction of 372 (17 per cent) on the previous year's figure. (a summary of the data is included within the 'Reports' section of this briefing)

Kevin Clinton, head of road safety at the Royal Society for the Prevention of Accidents, said: "In 2010, road deaths on Great Britain's roads fell well below 2,000 for the first time. This was a fantastic achievement. However, there is still more to be done; if all the reported road accidents in 2010 had been prevented, this would have saved almost £15 billion - crucial given the current economic climate.

"During the last three years we have had unusually large drops in the number of deaths and serious injuries on our roads. This very welcome result is due to the focus we have had on road safety, but also to some external factors such as the economic downturn, falling traffic levels and heavy snowfalls over the last two winters. We need to consider how we can ensure that the major reductions in death and injury do not stop or, even worse, start to increase if the economy picks up and we have milder winters.

"The Strategic Framework for Road Safety along with funding and political support for road safety will be even more important if activity on the road increases over the next few years otherwise we may lose many of the road safety gains made recently.

"And, as good as the reductions in young driver related deaths are, we need to realise that this is partly due to a fall in the proportion of young people holding driving licences and that young driver accidents still account for a quarter of all road deaths."

### **Miner dies after Roof Collapses at North Yorkshire Colliery**

One man died and a second was rescued at Kellingley Colliery in North Yorkshire on Tuesday 27th September. Gerry Gibson was killed when the roof of a mine shaft collapsed 800 metres below ground.

Kellingley Colliery, one of Britain's deepest remaining pits, is owned by UK Coal, the country's biggest producer. It employs around 600 staff.

Andrew Macintosh - UK Coal's communications director - said the initial inquiry had shown no problems with the coal seam or the equipment. A full investigation is now being carried out by the HSE and North Yorkshire Police.

The mine is developing a poor safety record with fatal accidents occurring in both 2008 and 2009 and an evacuation last year following a methane explosion. UK Coal appeared at Pontefract Magistrates' Court on Friday 30 September in relation to the death of Ian Cameron, 46 who died when equipment fell on him in October 2009.

The recent event happened just weeks after a mine flooding incident in South Wales caused the deaths of four miners.

### Back Injury Ended Carer's Career

The TUC reports that a care worker from Leicestershire who was forced to give up her career after she damaged her back at work, has been awarded compensation. The amount awarded in the out of court settlement is not disclosed.

Julie Bowler, 35, from Coalville, has been left unable to lift and suffering from back pain and sciatica after she was injured whilst working for Southern Cross-owned Rowans Nursing Home in 2010. Despite eventually being able to return to work on light duties, the GMB member felt her injury stopped her from doing her job as a carer properly. She now works as a classroom assistant.

When she suffered the injury Mrs Bowler, who had worked as a carer for 12 years, was turning a patient onto her side with the help of a colleague. They hadn't been provided with specialist 'turn sheets' to lift the heavy patient who suffered from dementia. The patient was also on a normal divan bed, not a profile bed which would allow carers to raise it to allow for lifting. As the patient was laid on her side she fell towards Mrs Bowler who caught her with both hands to prevent her from falling off the bed onto the floor. The weight of the patient caused her to suffer a bulging disc.

Mrs Bowler said that she and colleagues had asked bosses to provide 'turn sheets' for the patient but they never materialised. In a GMB backed compensation case, Southern Cross Health Care Group plc admitted liability and settled the claim out of court for an undisclosed sum. Mrs Bowler said: 'I had always wanted to become a carer and was qualified to the highest level, I enjoyed the job. When I attempted to return to work my injury meant I was unable to do a lot of the job and that wasn't fair to me or the clients.'

### Agency Workers Benefit from New Rights

The TUC says that hundreds of thousands of agency workers across the UK will benefit from improved working conditions arising from the new equal treatment rights for temps which came into effect on Saturday (1 October).

Unlike fixed-term employees and part-time workers, until now agency workers have not had a right to the same pay and holiday rights as directly employed staff in the same workplace. This lack of rights has left them open to abuse, says the TUC.

Nearly half (46 per cent) of the agency workers who responded to a YouGov survey commissioned by the TUC said they received less holiday entitlement than permanent staff. One in three (33 per cent) reported getting less pay for doing the same work as directly employed staff and nearly one in three (28 per cent) said they lost out on overtime and unsocial hours payments. According to the Labour Force Survey (LFS), the average agency worker gets five days less holiday a year than permanent employees.

The LFS also found that temps earned on average 68 per cent of the pay of permanent workers - a 32 per cent pay gap. From the first day of an assignment, agency temps working in the private, public or voluntary sector will have a right to use any facilities provided by the hirer - such as a crèche, canteen or transport services. They will also be entitled to information about internal vacancies at the company they are working for, and to be given the opportunity to apply for them.

After 12 weeks in the same role with the same hirer, agency workers will be entitled to the same pay, holiday entitlement and working hours as permanent staff, and they will also receive improved maternity rights.

The TUC believes these rights will help stamp out some of the exploitation that agency temps have faced at work, will help young workers gain a stepping stone into permanent employment and protect the well-being of pregnant agency workers.

## Reports

### Maintenance in Agriculture - A Safety and Health Guide

Agriculture is one of the most hazardous sectors. Non-fatal work-related accident rates are 1.7 times higher than the average, and the number of fatal occupational accidents is three times higher than the average. Agriculture also has a poor record of occupational health compared to other sectors.

Maintenance influences almost all aspects of farm work, be it in the state of buildings and infrastructure, or the operation of machines and equipment. Farm workers may get harmed during maintenance work and they may get harmed because of lack of maintenance or as a result of poor maintenance. UK data for fatal injuries in agriculture broken down by work activity show that 15% of all fatal accidents between 1999/2000 and 2008/2009 were related to maintenance tasks (machinery, buildings and general maintenance).

Because of the wide variety of tasks, there are many different hazards including:

- mechanical hazards related to the maintenance of machinery, such as crushing, entanglement and high-pressure fluid injection
- electrical hazards when working with defective equipment or during maintenance of electrical installations and equipment, or repair of broken electric fences
- thermal hazards related to the use of welding or heating equipment during maintenance, or maintenance of equipment with hot surfaces or operating fluids
- chemical hazards related to the use of dangerous substances during maintenance, or maintenance of equipment containing dangerous substances
- fire or explosion hazard during maintenance of facilities or equipment containing dangerous and explosive substances such as tanks, bins and silos, or fuel tanks
- biological hazards during maintenance of installations contaminated by biological agents, slurry tanks, ditches and sewage infrastructure
- ergonomic hazards, such as awkward postures, poorly designed tools
- hazards related to working in confined spaces
- falls from height, slips, trips

Farming often involves people working on their own. Not only does working alone increase the risk of an accident but it also means that if someone is seriously injured there is nobody to call for help. Financial constraints, time pressure and fatigue are also important factors. The way in which many workers are self-employed and that sub-contractors are used means that there can be a lack of training and awareness.

The guide includes a series of 'dos' and 'don'ts' for various common maintenance tasks including routine maintenance, working underneath machines, dealing with blockages and hydraulics. It also examines workshop safety, rules for confined space work, work at height and the use of PPE.

There are also good practice examples from around Europe and a checklist to assist those in agriculture to review the safety of their maintenance activities.

## Guidance

### Managing COSHH – Offshore Painting by Brush/Roller

This Offshore COSHH Essentials sheet describes good practice for mixing and spraying solvent-based paint. It covers the key points you need to follow to help reduce exposure to an acceptable level, as part of a COSHH assessment.

Likely hazards include:

- exposure to solvent vapours may result in a number of health effects, e.g. the central nervous system, irritation of eye, skin and respiratory system
- reactive products (e.g. epoxy and isocyanate-containing paints) may cause asthma by breathing in paint mist. They can also cause dermatitis by skin contact.

Risk control measures recommended by the fact sheet include:

- access – specific risk assessment needed for rope work, barriers and notices are required and access should be restricted to trained staff.
- storage – should be well ventilated, flame proof and include spill containment. Spill clean-up kits should also be provided, incompatible substances should be segregated and the amount of product stored should be minimized. Lids should be kept on containers when not in use, waste should be segregated and labelled and eyewash stations and fire fighting equipment should be provided.
- equipment and procedures – advice is provided regarding procedures for mixing, cleaning equipment, the use of PPE, use of ventilation and the use of barrier creams.
- maintenance, examination and testing - Keep equipment in effective and efficient working order and hold records of all examinations and tests for at least five years. Examine and test RPE thoroughly at least monthly and infrequently used RPE at least three monthly. Replace worn parts. Keep records of all examinations and tests for at least five years
- cleaning and housekeeping - Clean the area after the task, or as specified in safe working procedures. Deal with spills immediately.
- waste - Decontaminate all epoxy and isocyanate residues, including empty hardener containers. The safety data sheet should give a decontaminant recipe. Dispose of waste paint, thinner, brushes and rollers as 'hazardous waste'.
- personal decontamination and skin care – provide suitable washing facilities including nailbrushes. Avoid abrasive cleansers. Instruct workers in how to clean their skin effectively. Provide pre-work skin creams, which will make it easier to wash dirt from the skin, and after-work creams to replace skin oils. Caution: Never use thinners to clean skin.
- health surveillance - Conduct health surveillance for asthma where products are classified with a 'respiratory sensitiser' hazard. Conduct low-level health surveillance for dermatitis involving skin checks by suitably trained responsible person.
- training and supervision - Provide supervision – ensure that safe work procedures are followed. Instruct workers in the hazards, signs and symptoms of asthma and dermatitis, working procedures, use of risk control measures, spill procedures etc. Involve managers and supervisors in health and safety training.