

Prosecutions

€100,000 Fine after Death of Worker

[Ireland]

A construction company has been fined €100,000 for failing to stop building work during freak weather conditions, leading to a worker's death.

In January 2007, carpenter Edward Fowler (28) was hit on the head by a scaffolding board which was blown loose by high winds.

Minutes earlier a decision had been made to evacuate the site because of the wind, which reached a record 148km/h at nearby Dublin airport. GT Crampton Ltd had six previous convictions for health and safety breaches, including two involving fatalities.

Dublin Circuit Criminal Court heard the site management knew severe weather was forecast for that morning and lower wind speeds had blown scaffolding boards lose in the previous weeks.

When fire brigade members were tending to Mr Fowler on site another board landed one metre away. The emergency personnel felt it was too dangerous to remain and a makeshift stretcher was made to carry the victim out. He later died after three days on life support.

Clive Moutray, a director of GT Crampton Ltd, of Ballintaggart House, Clonskeagh Road, Clonskeagh, previously pleaded guilty on its behalf to failing to close part of the site at Charlestown, St Margaret's Road, Finglas, which on January 18th, 2007 was exposed to severe weather conditions leading to the death of Mr Fowler.

Judge Martin Nolan said the company made a serious misjudgement on the morning of the incident but had acted properly and honourably in the aftermath.

He imposed a fine of €100,000 on GT Crampton and ordered it to pay the State's legal costs.

Kay Baxter, an inspector with the Health and Safety Authority, told David Hayes, prosecuting, that GT Crampton was the main contractor and project supervisor for the site. At 9.45am, Mr Fowler and his colleagues were walking to their tea break when an eight foot board blew loose and struck him on the head. A weather warning about severe winds had been issued by Met Éireann and the site management was aware of this.

Food Company Fined for Worker Injury

Linden Foods has been fined £25,000 over an accident which left one of its employees with serious head injuries.

Lucas Da Costa, 42, who is originally from East Timor, **was struck by falling pallets at the company's factory** in Dungannon in February 2010.

The company pleaded guilty to breaches of health and safety.

The judge said Mr Da Costa had suffered a serious debilitating brain injury which would affect him and his family for the rest of his life.

Omagh Crown Court, sitting in Belfast, heard that Mr Da Costa had worked for the company as a stores operative since January 2008.

He was trying to lift a single pallet when pallets which were stacked three high behind that fell on top of him.

The truck he was using did not have any overhead protection and they landed on him, leaving him with severe brain injuries to such an extent that he now lives in a nursing home and cannot communicate in any way or do things for himself.

Prosecution lawyer Robin Steer told the court **the pallet truck Mr Da Costa had used had forks one metre long, but that the Euro pallet he was lifting was only 80cm deep so the forks "protruded out by 20cm and into the stack behind" adding that when he lifted it, they fell on him.**

The lawyer said that normally, Euro pallets were made of different materials and were a different colour to the standard pallet but that tragically on this occasion, all the pallets concerned were blue so Mr Da Costa would not have known they were different depths.

Another factor which led to the accident was that the firm had taken a delivery of trays on pallets which were stacked on Euro pallets when they should have been on standard ones.

A manager had agreed to take the delivery on the understanding that the rest of the load would be on standard pallets but that information never reached Mr Da Costa.

Turning to his injuries, Mr Steer said Mr Da Costa was rushed to hospital and then transferred to the Royal Victoria Hospital where he was treated for bleeding on to the brain, as well as multiple fractures to his skull and facial bones.

The lawyer said there were no aggravating features in the case but that in mitigation, there had been an admission of guilt by Linden Foods and a "prompt response" to what had happened.

Linden Foods Ltd, with an address at the Granville Industrial Estate, Granville Road in Dungannon, pleaded guilty to two counts of health and safety breaches in that they failed to ensure, so far as was reasonably practicable, the health, safety and welfare at work of all employees and failed to make a suitable and sufficient assessment of the risks to the health and safety to employees.

Defence lawyer Stuart Spence revealed that since the accident, Linden Foods Ltd had spent more than £70,000 on improving health and safety practices, employing a health and safety officer and upgrading the pallet stacking system so that they were not stacked on top of each other.

He told the court that the company had already admitted liability in civil proceedings, was still paying Mr Da Costa's wages to his wife and that his cousin, who also worked for the company, was allowed to leave work to help out when required.

Handing down the fines, Judge Lynch said there had been a "tragic catalogue of factors" which led to the accident but that he was satisfied the company took the health and safety of employees "very seriously".

In a statement, Linden Foods Ltd said: "The accident that injured our colleague has had devastating consequences for him and his family and was extremely distressing for all those who worked with him.

"The company deeply regrets what happened and our thoughts are with his family and friends at this difficult time."

Linden Foods Ltd employs 535 people and made a net profit of just over £500,000 in the last financial year.

Global Chemical Firm Sentenced over Finger Loss

A global chemical firm has been prosecuted for ignoring basic safety guidelines after a maintenance worker seriously injured his right hand at a Runcorn factory.

The 58-year-old worker, who has asked not to be named, **lost his ring finger and suffered damage to his middle and little finger after his gloved hand was pulled into machinery.**

Ineos Enterprises Ltd, which has an annual turnover of €900 million, was prosecuted by the Health and Safety Executive (HSE) following an investigation into the incident at the company's site at the Weston Point Salt Walks on South Road on 21 September 2010.

Runcorn Magistrates' Court was told Ineos **had failed to follow health and safety guidance which advises against wearing gloves when using metalworking lathes. Instead, it introduced a new policy on 1 May 2010 making wearing protective gloves mandatory for most workers on the site.**

Several employees were reprimanded for not wearing gloves following the policy's introduction, and the injured worker was reminded to wear his gloves by his line manager on the morning of the incident.

He was removing the rust off a hitch pin, used to connect a trailer to a vehicle, when his glove got caught in the rotating mechanism, dragging in his hand.

The HSE investigation found that Ineos had failed to assess whether its glove policy could create additional hazards or increased risks. Investigators also discovered that the metalworking machine and two pillar drills at the factory had not been fitted with safety guards.

Ineos Enterprises Ltd, which has sites in the UK, France, Germany and Thailand, admitted breaching Section 2(1) of the Health and Safety at Work etc Act 1974 when failing to ensure the safety of workers.

The company, of South Parade in Runcorn, was fined £12,000 and ordered to pay £6,607 towards the cost of the prosecution on 4 July 2011.

Speaking after the hearing, Mhairi Duffy, the investigating inspector at HSE, said:

"A worker has lost one finger and badly damaged two others because Ineos didn't think about the possible implications of its new glove policy".

"The company ordered its staff to wear protective gloves on the factory floor, even though some workers tried to explain that there were often specific reasons for not wearing them".

"New guidance was introduced nearly six years ago on not wearing gloves while using metalworking machines, but Ineos failed to keep up to date with the latest health and safety advice."

Missing Guardrails Cost Firm

A Poole construction company has been sentenced after a carpenter was seriously injured when he fell three metres off scaffolding while working on a house extension.

Michael McCarthy, 60, from Verwood, was contracted by P O Sharps Landscapes Ltd to construct the roof of the extension at a property in Radipole Road in the town.

The extension was being built above an existing garage which protruded out beyond the face of the main building causing a step in the scaffold at roof level of the garage.

On 20 September 2008, Mr McCarthy descended the ladder and stepped backwards over the open edge, falling three metres and fracturing his spine and ankles.

The Health and Safety Executive (HSE) prosecuting at Bournemouth Magistrates' Court, found the platform had no guardrails, and a ladder used to access the working platform above was positioned outward, forcing anybody using the ladder to stand backward at the unguarded edge.

P O Sharps Landscapes pleaded guilty to breaching Regulation 4(1) of the Work at Height Regulations 2005, and was fined £4,000 and ordered to pay costs of £4,000.

After the hearing HSE inspector Frank Flannery commented:

"Falls from height can cause significant and life-changing injuries and duty holders must take steps to prevent falls wherever possible.

"Mr McCarthy's injuries are serious and permanent: he has a steel rod in his back, steel pins in his right ankle, and left foot/heel. He suffers with chronic pain and has no prospect of working again. This incident could easily have been prevented by erecting guardrails along the platform."

News

Advice on Health and Safety for Schools

The Government has torn up reams of health and safety guidance for schools and condensed them into eight pages of simplified advice.

In a move designed to alleviate teachers' fears of legal action being taken in the event of an incident in which a child suffers harm, as well as encouraging teachers to take children on more school trips, the Department for Education (DE) has slashed 150 pages of health and safety guidance for schools into eight pages.

The fear of prosecution is often cited as a barrier to the organisation of school trips, but the Department emphasises that convictions are rare. In the past five years, the HSE has pursued only two cases for breaches of health and safety law in relation to school visits, and both were taken in the light of evidence of recklessness, or a clear failure to follow sensible precautions.

The revised guidance:

- summarises the legal duties of head teachers, governing bodies and local authorities on health and safety, and covers activities that take place on and off school premises
- clarifies that a written risk assessment does not need to be carried out every time a school takes pupils on a routine local visit
- tackles teachers' fears about being prosecuted by making the law clearer; and clarifies that parental consent is not necessary for pupils to take part in the majority of off-site activities organised by a school, as most of these activities take place during school hours and are a normal part of a child's education.

To help schools further, the DE has also developed a 'one-off' parental consent form, which covers activities outside the normal school day.

The consent form will cover all activities and will only need to be signed once, when a child enrolls at the school. Rather than filling in forms for every excursion, schools will then only need to inform parents in advance of each activity to give them the opportunity to withdraw their child from the activity if they wish.

Education secretary Michael Gove said: "Children should be able to go on exciting school trips that broaden their horizons. That is why we are cutting unnecessary red tape in schools and putting teachers back in charge.

"This new, slimmer advice means a more common-sense approach to health and safety. It will make it easier for schools to make lessons more inspiring and fun."

The HSE has also prepared a myth-busting statement for schools and local authorities, explaining what issues they need to focus on when organising excursions.

Council Job Caused Deafness

A council driver was made deaf by exposure to dangerous levels of noise at work.

GMB member David Carr, 65, from Rotherham has received £6,000 in damages after suffering from noise induced hearing loss and tinnitus.

His hearing became damaged while working for Barnsley Metropolitan Borough Council during the 1960s and 1970s. He worked as a roadworker, JCB driver, HGV driver and mower for the council. As a roadworker, he was exposed to unsafe levels of noise from tools like jackhammers, drills and vibrator rollers for up to five hours a day. He was exposed to engine noise for just as long when working as a driver on JCBs, HGVs and lawnmowers.

Mr Carr was diagnosed with deafness and tinnitus after a check up in the workplace in August 2009. Facing a union-backed compensation claim, Barnsley Metropolitan Borough Council admitted liability and agreed the £6,000 payout.

Mr Carr, who is now retired, **said: "We were never warned about the dangers at the time. We just got on with our work and never imagined what damage it was doing to our hearing. All these years later I'm now left hard of hearing. It can leave you feeling isolated and I now wish we had been given the correct protection for our ears to have avoided this happening."**

Paul McCarthy, GMB North West regional secretary, said: "Industrial deafness is usually a condition associated with factory workers and those using pneumatic drills. As Mr Carr's case shows employers who have staff driving heavy machinery must also be aware of their responsibility to provide suitable hearing protection."

Manslaughter Charges for Storage-Equipment Firm and Directors?

A company that manufactures storage products will appear in court next month to answer corporate manslaughter and health and safety charges after a worker died from injuries sustained in a fall.

Lion Steel Equipment Ltd, which is based in Hyde, Greater Manchester, has been summonsed to appear before Tameside magistrates on 2 August. As well as being charged with corporate manslaughter, the company is also charged under sections 2 and 33 of the HSWA for failing to ensure the safety at work of its employees.

Three of the firm's directors – Kevin Palliser, 59, Richard Vaughan Williams, 43, and Graham Coupe, 59 – have each been charged with manslaughter by gross negligence.

Alison Storey, reviewing lawyer in the CPS Special Crime and Counter Terrorism Division, confirmed that the three directors have also been charged under section 37 of the HSWA for failing to ensure the safety at work of their employees.

The charges brought by Greater Manchester Police relate to an incident on 29 May 2008, when one of the firm's employees, 45-year-old Steven Berry, fell through a fragile roof at an industrial unit in Hyde. Mr Berry was taken to Tameside General Hospital, where he later died as a result of his injuries.

Added Storey: "I have taken this decision after very carefully reviewing the material gathered in the police investigation and have concluded that there is sufficient evidence for a realistic prospect of conviction, and that it is in the public interest to bring these charges."

Lion Steel has been supplying businesses with storage equipment, including shelving, cupboards and cabinets, for more than 50 years. The company is listed as a medium-sized business with more than 100 employees.

Guidance

Fighting Fires in Open Rural Areas

This Generic Risk Assessment examines the hazards, risks and controls that relate to Fire and Rescue Service personnel, the personnel of other agencies and members of the public when fighting fires in open rural locations including grass, moor land crop and forest fires.

Depending on the nature and scale of the operational incident a variety of significant hazards may be present. Fire and Rescue Service may therefore need to consider the contents of other specific generic risk assessments in this series.

It is advised, therefore, that this generic risk assessment is considered in conjunction with all other relevant assessments, such as emergency response, rescues – from ice and unstable ground, and rescues – flooding and water safety.

Significant hazards and risks

The degree to which rural area fires represent a risk to personnel may vary between each Fire and Rescue Service area. Personnel from Services which serve predominantly urban areas may occasionally attend fires in rural areas.

Significant hazards which face Fire and Rescue Service personnel at rural area fires may include:

- environmental conditions
- terrain
- non-service equipment, personnel
- insects and animals
- movement of vehicles
- military ranges and hunting/shooting areas
- open water
- pylons/overhead power lines
- manual handling and heavy physical work
- stacked materials.

The type of rural area, eg forest or moorland will determine the hazards and risks faced.

Key control measures covered include:

- planning
- competence and training
- command and control
- safety officer(s)
- personal protective equipment
- post incident
- standard operating procedures
- specialist equipment
- stacked materials.



London 2012 Case Studies: Involving the Workforce

The scale of the London 2012 projects resulted in the assembly of a huge workforce brought together from all parts of Great Britain and beyond. Effective communications within teams was essential to contribute to achieving the Olympic Delivery Authority's target of 'Zero fatal accidents by 2012'.

Hazard

A frequent underlying cause of construction project incidents is 'poor communications'. Experience shows that lower incident rates occur on projects where the workforce is fully engaged on health and safety issues.

Solution

On one project, in addition to trades union representation, briefings, safety circles and toolbox talks, two new communication initiatives were introduced to improve worker involvement:

Observation Cards - encouraging the workforce to record both good and bad observations about activities on site. There were 780 cards collected in one year. The system prompts people to take responsibility for finding a solution rather than just reporting problems.

Making Safety Personal - a further card system was used in cooperation with the project health and safety manager. The cards asked site workers and their line managers to commit to specific health and safety actions over a given period.