



Prosecutions

Fife Council and Contractor fined £13,700 for Asbestos Exposure

The Health and Safety Executive (HSE) has warned property owners to ensure that they keep accurate records of asbestos in their buildings and pass any information on to contractors.

The warning follows a serious incident in which contracted workers as well as members of the public were exposed to airborne asbestos fibres as a result of refurbishment work in council properties in Fraser Avenue, Inverkeithing in November 2007.

At Dunfermline Sheriff Court on 9 July, Fife Council was fined £10,000 after pleading guilty to a charge under section 3(1) of the Health and Safety at Work etc Act 1974.

The contractor, ECG Building Maintenance Ltd was fined £3,700 after pleading guilty to charges under sections 2(1) and 3(1) of the Health and Safety at Work etc Act 1974

Fife Council contracted ECG Building Maintenance Ltd to replace water storage tanks within the communal loft areas of properties in Fraser Avenue and adjoining areas. Some of these tanks were insulated with asbestos. ECG Building Maintenance Ltd were not licensed by HSE to remove asbestos nor were they competent to do the work. Their workers had not been adequately trained so did not recognise the presence of asbestos, or the risks posed by it. They also failed to implement established control measures to minimise the exposure to themselves as well as to other people in the vicinity.

HSE inspector Alastair Brown commented after the case:

"Fife Council failed to keep an understandable register of asbestos and failed to ensure that a full survey for asbestos was carried out prior to any work starting, so the information available was not sufficient to alert persons to the immediate danger from the asbestos prior to the work beginning.

"In view of the Council's previous experience of managing asbestos, this was a very disappointing incident. The effects of exposure to asbestos fibres can take as long as 20 to 30 years to manifest themselves, and over 4,000 people are dying every year in Great Britain due to the unrecognised exposure to asbestos earlier in their working lives. Legislation came into force in May 2004 which requires the organisation in control of any non domestic premises, or the common parts on domestic premises, to identify and assess asbestos in those premises.

"The Council failed to identify that asbestos was present in the area where work was to take place, and the contractor then failed to recognise it, resulting in the asbestos becoming airborne as it was disturbed and spread into public areas of the buildings."

HSE Warns of Need to Maintain Plant Equipment after Driver's Death

Following the death of a forklift truck driver, who was crushed between the side of his vehicle and its descending arm, the Health and Safety Executive (HSE) is warning companies of the dangers of failing to maintain plant equipment.

The incident in question occurred at the Davyhulme Waste Water Treatment Works, Rivers Lane, Trafford, Greater Manchester, on 18 September 2003. There were no witnesses to the accident, but the most likely explanation is that the victim leant out of the cab window and inadvertently came into the contact with the joystick, bringing the forklift's arm down upon himself.

The off-side cab window of the vehicle normally acted as a guard, but it had been damaged five weeks previously during a lifting operation. At the time of the fatal accident, it was completely missing.



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Two companies were prosecuted in relation to the incident – the dead man’s employer, MB Plastics Ltd, of Forward Works, Woolston, Warrington, and the principal contractor, Birse Water Ltd, now trading as Birse Integrated Solutions Ltd, of Alexander House, Station Road, Cheadle Hulme. They were both sentenced at Manchester Crown Court on 30 June 2009.

MB Plastics Ltd pleaded guilty to an offence under section 2(1) of the Health and Safety at Work etc. Act 1974. The offence concerned its failure, so far as was reasonably practicable, to ensure the health and safety of its employee. The company was fined £150,000 and ordered to pay costs amounting to £24,323.

Birse Integrated Solutions Ltd pleaded guilty to an offence under section 3(1) of the same Act. This concerned the company’s failure to ensure the health and safety, so far as was reasonably practicable, of persons not in its employment. Birse Integrated Solutions Ltd was fined £50,000 and ordered to pay £41,073 costs.

HSE Inspector Warren Pennington commented that the incident could have been avoided if the proper health and safety procedures had been followed. MB Plastics Ltd had no system in place for formal regular inspections of the plant. Consequently, the company failed to maintain the cab window which could have saved the man’s life. He added that, Birse, the principal contractor on site, also had a duty to supervise its subcontractors properly. Although the company had a comprehensive management system in place, it was not implemented and, consequently, the missing window was not spotted.

Brechin Rendering Plant Owners Fined for Toxic Fumes

The Health and Safety Executive (HSE) has reminded companies of the dangers of allowing fumes to build up in confined spaces. The warning follows the HSE-initiated prosecution of a Brechin rendering plant after two workers were overcome by the hydrogen sulphide fumes generated by rotting animal waste.

The incident occurred in July 2007, when two men were delivering animal waste from a neighbouring abattoir to a waste pit at the Brechin plant, prior to incineration. The hydrogen sulphide fumes were so strong that they collapsed and lay unconscious in the plant’s waste area before being rescued and rushed off to hospital. One of the men had to be kept in intensive care overnight.

At Forfar Sheriff Court, Sacone Environmental Ltd, of Brechin, pleaded guilty to breaching section 3(1) of the Health and Safety at Work etc. Act 1974. The breach concerned the company’s failure to ensure, so far as was reasonably practicable, the health and safety of workers not in its employment. Sacone Environmental Ltd was fined £12,000.

The court heard that there were no gas monitors or alarms installed in the waste intake area of the Brechin plant. Furthermore, its enclosed nature meant that it was, in effect, a confined space. Waste tipped into the pit can remain there for days before being processed or incinerated.

John Radcliffe, the HSE’s Investigating Inspector, said that the incident was entirely foreseeable and preventable, adding that the accumulation of hydrogen sulphide in the area concerned should reasonably have been expected. Furthermore, as respiratory equipment was not provided and there was no quick means of escape, the area ought to have been better ventilated or at least have had monitoring equipment installed to provide an alert in the event of build up of gas.

Hydrogen sulphide is acutely toxic to humans. There have been numerous instances of fatal poisonings to workers in leather plants, animal houses, sewage and effluent treatment sumps and other confined spaces.



News

26 Lives in Scotland Lost through Avoidable Workplace Accidents

Upon the release of new figures revealing the number of employees killed at work in Scotland, the Health and Safety Executive (HSE) has reminded businesses in the country of the need to make health and safety their number one priority.

The figures, which are provisional, indicate that, in 2008/09, 26 fatal workplace injuries were reported in Scotland. This nevertheless represents a slight improvement over the previous year's figure of 31. However, over the past five years, there have been 30 deaths per year on average, caused by accidents in the workplace.

HSE's Director Scotland, Dr Paul Stollard said that the majority of the fatalities could have been prevented by the adoption of simple and sensible precautions.

The provisional figures also indicate that the number of people killed at work in Britain as a whole has fallen to a record low, with 180 worker fatalities reported in 2008/09. This represents a 17% reduction on the previous lowest total of 217, which was recorded in 2005/6.

The 2008/09 figure corresponds to a fatal injury rate of 0.6 per 100,000 workers – a decrease of 25% from the previous year.

The latest figures break down as follows:

Great Britain

- England – 147 fatal injuries
- Scotland – 26 fatal injuries
- Wales – 5 fatal injuries.

England

- North East – 9 fatal injuries
- North West – 22 fatal injuries
- Yorkshire and the Humber – 24 fatal injuries
- West Midlands – 12 fatal injuries
- East Midlands – 11 fatal injuries
- East England – 12 fatal injuries
- South East – 15 fatal injuries
- South West – 22 fatal injuries
- London – 20 fatal injuries.

As mentioned above, these figures are at present provisional. They will be finalised in June next year following the completion of investigations.



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HSE Advice on New Law Poster

The Health and Safety Executive (HSE) is warning businesses across Britain not to be duped into buying unnecessary and overpriced copies of its health and safety law poster.

The poster is a fixture of every workplace in Britain and employers have a legal duty to display the poster in a prominent position or provide each worker with a copy of a Law pocket card. Both outline employer and workers responsibilities and where workers can seek advice.

There is some evidence of misleading promotions wrongly claiming that the old poster must be replaced immediately and that the new law poster should be displayed on every notice board within the business' premises.

This is incorrect and employers could be led to believe that they are not meeting their legal requirements. Employers can check they have a genuine HSE law poster by checking the unique, serially numbered hologram on each poster.

Vinny Kenny, from HSE said: "The information that is being sent out by some companies may be misleading under consumer protection legislation and we want to put a stop to it. If businesses receive any promotions relating to the Law poster or pocket card and are in any doubt about their authenticity they should contact HSE on 0845 945 0055 before parting with their money."

New versions of the health and safety law poster and an accompanying pocket card were launched in April and provide clearer information for workers about their right to have their health and safety properly protected.

The Health and Safety Information for Employees Regulations allow businesses five years to switch to the new poster and pocket cards – they must be replaced by no later than 5 April 2014. Employers who choose to display the old poster after 6 April 2009 must make sure it is legible and keep the addresses of the enforcing authority and the employment medical advisory service up to date.

Guidance

Updated General Advice for Employers - Swine Flu

Employers and employees should always practice good personal hygiene measures – use a disposable tissue to control coughs/sneezes, dispose of it appropriately and wash your hands before eating, drinking etc. In addition at the current time you should:

- advise your staff to stay at home if they are sick with flu-like symptoms and have good reason to believe, based on HPA guidance, that they may have been exposed to the swine flu virus
- send home any employees who are displaying flu-like signs/symptoms in the situation described above.

Use of face masks

The number of people in public places who are displaying symptoms is likely to be limited. Therefore it should not be necessary for workers to wear facemasks routinely when in contact with the general public.

For certain occupations and activities where there is an increased likelihood of exposure (e.g. health and social care workers), HSE's guidance is that fluid-repellent surgical face masks offer a barrier to minimise contact with the mouth and nose but do not offer protection against aerosols.

For protection against aerosols a FFP3 mask should be used. A filtering facepiece (FFP3) device is a mask which is certified to the PPE Directive. It provides a high level of filtering capability and face fit.



Reports

Is Better Regulation Really Better for Health and Safety at Work in Europe?

Since the 1970s the fundamental ethos behind health and safety at work legislation has been based around systematic health and safety management, based on the production, processing and passing-on of information. Information is required for a preventative, as opposed to a reactive approach to health and safety and this has hitherto been regarded as the way things should be.

Until now. The European Commission has recently claimed that its plans for better regulation should bring about savings in the region of 150 billion euros for 2012 through a 25% cut in the administrative burden that health and safety management places on businesses. The question is, although this figure sounds impressive, there are concerns that the new "better regulation" approach savings may come at a cost to society as a whole in terms of the deep-rooted guarantees that the current system provides in relation to public health, environmental protection, consumer protection and other core public interests.

The HESA newsletter for March 2009 has published an article detailing a Special Report carried out by Laurent Vogen into whether the Commission's concept of better regulation is in fact better or worse for health and safety at work in Europe. The report highlights that with detailed substantive health and safety rules governing things like occupational exposure limits, technical specifications of plant and machinery etc. there comes a guarantee of standards to be met, and the assumption that this will be enshrined in the overall policy and strategy of a company.

Moving away from this, to a system of less specific regulation runs the risk, some people say, of even less time and money being spent on health and safety. A major component of a successful health and safety management system lies in the provision and sharing of information, particularly in relation to risks and prevention of accidents. It remains unclear whether better regulation is able to ensure a similar level of information sharing and provision, the way the current health and safety system allows.

In terms of actual costs of health and safety to businesses, across the EU little attempt has been made to quantify this, however the Irish Government has attempted to come up with a reasonable cost estimation, estimating that only 1% of labour costs in the construction industry in Ireland is attributable to health and safety measures.

Britain estimated the cost of risk assessment to EU businesses at 5.5 billion euros, slightly more than the EU Commission's figure of between 4 and 5 billion euros. Risk assessment costs are very difficult to quantify and there remains a fairly strong lobby against risk assessment, particularly for certain sectors such as very small workplaces or those utilising temporary or agency staff. A reduction in risk assessment requirements has also been mooted by some as desirable.

And so, the debate rumbles on - how much risk assessment and adequate health and safety measures costs, to its necessity and value within organisations. Just one part of the overall debate surrounding the pros and cons of better regulation and whether it is better or worse for health and safety in Europe's workplaces.

Local Exhaust Ventilation - Topic Inspection Pack

Exposure to airborne contaminants in the workplace can cause a number of occupational diseases, such as occupational asthma (OA) and chronic obstructive pulmonary disease (COPD). Exposures in certain industries, and due to certain processes, increase the risk of occupational cancers.

To put the statistics into context, it is estimated that around 10% of UK businesses include processes and operations that create a respiratory risk. At least half a million workers may rely on Local Exhaust Ventilation Systems (LEV) to protect their health, with around 140,000 LEV systems in use in the UK today. Of these, it is known that only around 40% of these are "annually" tested as required under the Control of Substances Hazardous to Health Regulations (COSHH), 60% of them are not.



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The main problems with the design and application of LEV systems and control of exposure are the poor level of knowledge and skills among duty holders and suppliers of such systems. The Health and Safety Executive (HSE) has recognised the potential risks associated with LEV systems and commissioned a study, known as the LEV project to look at the subject in more detail.

Further to this study the HSE has published a new Topic Inspection Pack (TIP) which is aimed at assisting inspectors in carrying out inspections where LEV systems are present. Four main stakeholder groups are the focus:

- employers
- designers/suppliers(including manufacturers and installers)
- examiners (who do thorough examinations and tests)
- employees.

It is hoped that the LEV project will improve the performance of all of these groups. Most of the legislation and guidance concerning LEV (such as HSG 258, INDG 408 and 409) is not new, but this new LEV guidance re-emphasises the key message for three stakeholder groups in particular – suppliers, duty holders and employees. It also reinforces the fact that effective cooperation between these three groups is essential for proper LEV control.

The new LEV Topic Inspection Pack comprises six chapters, described herewith.

Chapter One briefly describes how to use this pack, with Chapter Two providing the background and scope of this project.

Chapter Three provides information on LEV guidance, training, inspector communication and feedback. A number of information sources are provided, as well as details of LEV training courses and emphasises the need for effective communication and feedback between inspectors and those being inspected.

Chapter Four concerns LEV user-supplier good practice, and crystallises existing and previous guidance. The LEV User Manual and LEV Log Book are highlighted, along with advice on LEV hood flow indicators and the labelling of LEV hoods. The importance of ensuring the correct employers' specification is emphasised, in conjunction with the commissioning, examination and testing of LEV systems.

Chapter Five is mainly aimed at inspectors of LEV systems. It provides comprehensive information on procedures, hints and tips on ensuring effective and efficient inspection of such systems, beginning with preparation before leaving the office, right through to the inspection itself.

The final Chapter, Six, focuses on guidance available for enforcement in terms of LEV systems.

The document contains seven additional Appendices, providing a range of information that may be used by inspectors – including templates for enforcement notices, aide memoirs for inspectors and relevant law. In addition to this is information useful to anyone involved with LEV systems, such as guidance on how to use a dust lamp and also airflow indicators and air velocity measurement