

Prosecutions

Worker's Finger Severed in Machine

A leading sweet manufacturer has been sentenced after part of a worker's finger was cut off at a Blackpool factory.

The employee at Tangerine Confectionery Ltd was trying to remove a blockage in one of the sweet-making machines when his left hand was pulled in, severing his index finger to the top knuckle.

The company, which produces liquorice allsorts and sherbet fountains among other sweets, was prosecuted following a Health and Safety Executive (HSE) investigation into the incident. It found the worker had been able to reach the rotating parts in the machine while the power was still on.

Blackpool Magistrates' Court heard the 25-year-old from Blackpool was operating the machine on the morning of 8 September 2008 when it became blocked. He removed the guard to clear the blockage when the rotating wheels that flatten the sweet mixture caught his hand.

Doctors were unable to reattach the end of his finger due to the crushed nerves, and he needed five months off work to recover.

Tangerine Confectionery, which has seven factories around the country, pleaded guilty to a breach of the Provision and Use of Work Equipment Regulations 1998 after it failed to make sure the machine stopped operating when the guard was not in place.

The company, of Vicarage Lane in Blackpool, was fined £3,400 and ordered to pay £4,568 in prosecution costs on 10 August 2011 following the incident at its Clifton Road site in Marton.

Speaking after the hearing, the investigating inspector at HSE, Anthony Banks, said:

"This incident has resulted in a worker suffering a permanent injury but it should simply never have been allowed to happen.

"The risk of injury from these types of machines are well known in the industry and Tangerine Confectionery has since installed a new guard over the machine which cuts the power as soon as it is lifted.

"If this guard has been in place at the time of the incident then one of the company's employees would not have lost part of his index finger."

Use of Unlicensed Contractor leads to Fine

Two Worcestershire companies and a contractor from Hall Green have been prosecuted for releasing asbestos fibres during an office refurbishment project in Birmingham city centre.

Inspectors from the Health and Safety Executive (HSE) uncovered a series of failings during the refurbishment of 114-116 Colmore Row, work that included upgrading a lift containing asbestos insulating board.

Birmingham Magistrates' Court heard how building owners Evanacre Colmore Row Ltd and project managers Marchment Consulting hired builder Roland Morewood to carry out work over the weekend of 29 January 2010.

When lift engineers arrived, they found pieces of asbestos insulating board spread around the lift shaft area and refused to carry on working.

HSE inspectors stopped all workers from going into the building until it had been decontaminated. Air tests taken on several floors of the premises revealed significantly high levels of asbestos fibres, which were also found in several vacuum cleaners.

Asbestos insulating board was found stored in Roland Morewood's van, which itself was heavily contaminated with raised levels of asbestos fibres in the air. By law it should have been disposed of by a licensed contractor.

Speaking after the hearing, HSE principal inspector Richard Lockwood said:

"Asbestos is the biggest cause of occupational deaths in the UK, with an estimated 4,000 people dying every year from related diseases such as mesothelioma and lung cancer.

"Evanacre Colmore Row had an asbestos survey which clearly showed that asbestos was present in the lift. Marchment Consulting, which has expertise in building work, should have known how to deal with asbestos and materials containing its fibres in refurbishment projects.

"These companies decided not to use a licensed contractor to remove the asbestos insulating board but to get the work done over a weekend by an unlicensed contractor for a tenth of the cost.

"It is against the law for anyone to remove asbestos insulating board without a licence. Roland Morewood should never have carried out the work and did not take enough precautions to prevent the spread of asbestos fibres.

"Asbestos fibres were found to be at significant levels and if the alarm had not been raised, it is likely that people working on the refurbishment and office workers would have been breathing these fibres for some time."

Evanacre Colmore Row Ltd, of Cottonfields New Road, Cutnall Green, Droitwich, pleaded guilty to breaching Regulations 11(1)(a) and 16 of the Control of Asbestos Regulations 2006 and was fined £7,000 and ordered to pay £1,500 costs.

Marchment Consulting Ltd, of Kidderminster Road, Droitwich, pleaded guilty to breaching Regulations 11(1)(a) and 16 of the Control of Asbestos Regulations 2006 and was fined £7,000 and ordered to pay £1,500 costs.

Roland Morewood, of Mapleton Road, Hall Green, Birmingham, pleaded guilty to breaching Regulations 8(1) and 16 of the Control of Asbestos Regulations 2006 and fined £1,000 and ordered to pay £823 costs

Truck Dealership Fined

A technician was trapped when the cab of a lorry fell on him, causing him to be off work for six weeks.

Trevor Muffett, 60, from Akenham, near Ipswich, was carrying out a routine vehicle check when a metal prop holding up the cab gave way. He suffered two broken ribs and was trapped underneath the lorry for ten minutes.

Orwell Trucks, trading as Orwell Truck and Van, of Betts Avenue in Martlesham, pleaded guilty at Ipswich Magistrates' Court today to breaching section 2 (1) of the Health and Safety at Work etc Act 1974.

The company was fined £4,500 and ordered to pay costs of £2,726.

After the hearing, HSE Inspector Ivan Brooke said:

"Orwell Trucks did identify the risks facing their employees and how to prevent things going wrong. But it did not make sure that they had the necessary information or that they were properly trained. Nor were the measures needed to avoid injury monitored or enforced by supervisors.

"Trevor Muffett's injury could have been foreseen and prevented. And it all could have been much worse: there are cases of people having been killed by falling vehicle cabs. HSE will not hesitate to take companies, big or small, to court when they fail to behave responsibly and so expose their workers to risk."

News

Another Death despite Enforcement Action

Safety inspections were stepped up at the Sonae factory on Merseyside after the deaths of two workers last year.

Details of the extra checks were released following the death of another man – a demolition contractor – at the plant in Kirkby on Saturday.

The Health and Safety Executive (HSE) also said four enforcement notices requiring improvements were made following the deaths of Thomas Elmer, 27, and James Bibby, 25, in December.

The HSE has yet to decide whether there is enough evidence to bring a prosecution in those cases.

The HSE and police were continuing to investigate the circumstances surrounding the death of Dennis Kay, 62, who worked for Andrew Connolly Demolition.

He was working on the demolition of a building damaged by a fire which raged at the plant for eight days in June, and which is not currently in operation.

Campaign group Say Bye to Sonae, which wants the factory closed down, is planning to hold a march to the site next week.

And Knowsley MP George Howarth demanded Sonae's health and safety record be published in full.

Director to face Manslaughter Charge

A director of a construction firm has been accused of causing, through gross negligence, the death of a child who was killed when a wall he designed collapsed on her.

Three-year-old Meg Burgess was killed when a wall designed by George Collier and constructed by his company, Parcol Developments Limited, collapsed on to a public footpath in the Welsh coastal resort of Prestatyn, where she was walking with her mother.

Given Mr Collier's direct role in the incident, which occurred on 26 July 2008, the Crown Prosecution Service (CPS) has decided that he should be charged with gross-negligence manslaughter.

Parcol Developments, which has ceased trading, has been charged with an offence under section 3 of the HSWA, but escaped a charge of corporate manslaughter because the CPS did not judge it to be in the public interest to prosecute the firm for such an offence.

Rosemary Ainslie, reviewing lawyer for the CPS Special Crime and Counter Terrorism Division, said: "After considering reports from experts on construction standards and advice from counsel, I have decided that George Collier should be charged with gross-negligence manslaughter for his role in designing and constructing the wall that collapsed."

She added: "I did consider whether Parcol Developments should also be charged with corporate manslaughter. There is sufficient evidence to prosecute the company for this offence, but it would not be in the public interest to do so. The company had only two directors and Mr Collier was the only one directly involved in this incident. The charge against him is sufficiently serious to address the alleged offending."

A spokesperson for the CPS confirmed to SHP that "there would be nothing to gain" from prosecuting a now defunct small company for corporate manslaughter when the person "directly responsible" is facing a charge of gross-negligence manslaughter.

Mr Collier has been summonsed to appear at Prestatyn Magistrates' Court on 3 October.

New Fire Rules for Care Homes

Following advice from the Chief Fire and Rescue Adviser, the Secretary of State has determined, under article 36 of the Regulatory Reform (Fire Safety) Order 2005 that, in this case, the use of self-closing devices on bedroom fire doors provides the most appropriate solution to remedy the failure to comply with article 14 (2) (b) of the Order.

This determination follows the fatal accident inquiry report into the fire at Rosepark care home in Uddingston, Lanarkshire, in which 14 residents died.

It is based entirely on the circumstances of the care home in question and the decisions have been taken after careful consideration of the particular circumstances relating to this case.

Smoking Ban Extended to Outdoors?

Councils are planning to make use of the Localism Bill to follow New York's lead in extending the ban on indoor smoking to open places such as parks, play areas and streets.

Such use would advance laws making it illegal to smoke in indoor public places first introduced to England, Wales and Northern Ireland in 2007 and echo a ban imposed earlier this year by New York mayor Michael Bloomberg on smoking in city parks, public plazas, boardwalks and beaches.

In Stony Stratford, Buckinghamshire, Councillor Paul Bartlett has rescheduled until late September a vote on whether to outlaw smoking in any public place in the town. Ironically used as the location for the Penrith Tea Rooms in the film 'Withnail and I', Nigel Farage, UKIP MEP for Buckinghamshire has championed opposition from Stony Stratford's residents and businesses.

Addressing a public meeting last month, Mr Farage said: "We have already seen the horrific impact the smoking ban has had to the pub trade which has resulted in hundreds of pubs across the UK shutting down.

"If this new proposal in Stony goes through it will mean no more popping out for a smoke."

Some councils in the South West have implemented, on a voluntary basis, no smoking areas around some children's parks and in the North West campaigning groups are advising local authorities on how to implement legally enforceable smoking bans.

Bill Wearing, head of Cumbria council's health and wellbeing committee, said: "Nobody wants to see anyone smoking near children's play areas. It is getting to a stage where people think it is socially unacceptable in parks.

"Once it becomes socially unacceptable, it becomes a lot easier to bring in laws," he added

Guidance

Maintenance and Work-related Road Safety

Poor vehicle maintenance is an important contributor to road traffic accidents, says the latest E-fact publication from the European Agency. In road transport operations vehicle maintenance and other work-related road safety issues should be integrated into arrangements for managing health and safety at work, which in turn should be part of everyday business management.

Business benefits

Managing work-related road safety, including vehicle maintenance, has benefits for businesses of all sizes, for example:

- fewer days lost due to accidents
- fewer vehicles off the road for repair and reduced maintenance costs
- fewer missed orders
- less need for investigation and follow-up
- less pollution and more fuel-efficiency from vehicles
- company vehicles also transport their public image once out on the road.

Employer Responsibilities

Occupational safety and health (OSH) legislation requires employers to assess risks and take appropriate steps to ensure the health and safety of their employees. This includes driving or riding at work, whether this is in a company car or hired vehicle, or the employee's own vehicle. Vehicles are also covered by OSH legislation on the use of work equipment. Any other equipment used with vehicles should be safe and suitable, for example, equipment used to load and unload vehicles.

The E-fact goes on to cover:

- managing vehicle maintenance in practice
- daily and weekly vehicle checks by drivers
- contracting owner-drivers or subcontracting transport activities
- other maintenance considerations (such as anti-slip surfaces, lighting, etc)
- road maintenance and journey planning
- leadership and involvement
- examples of good practices.

Reports

Health and Well-being at Work: a Survey of Employers

The employer survey was commissioned to provide new evidence to address gaps in knowledge about:

- employers' perceptions of the importance of work to health and health to work, and to what extent investment in health and well-being was deemed a priority
- the promotion of health and well-being at work through the availability of health and well-being initiatives or support
- evidence of how organisations engaged with their staff, by exploring the methods used to communicate with the workforce and to what extent organisations acted on employee feedback
- measures of business productivity, namely incidence and management of sickness absence, and measures of labour turnover
- information regarding employers' occupational sick pay policies.

The survey interviewed a stratified, random sample of employers at head office level in Great Britain. In total 2,250 interviews were carried out with organisations with two or more employees in Great Britain.

The importance of health to work and work to health

There was overwhelming agreement among employers that organisations had a responsibility to encourage employees to be physically and mentally healthy and that there was a link between work and employees' health and well-being. However, only a slim majority of employers agreed that 'the financial benefits of spending money on employee health and well-being outweighed the cost', and half thought 'their employees would not want them to intervene in terms of their physical and mental health'.

Large organisations were more likely than small organisations to recognise the financial benefits of investing in employee well-being. Small employers were more likely than large employers to think that employees would not welcome interference in matters concerning their health.

A quarter of respondents agreed 'that sickness absence was a real barrier to productivity in their organisation' at the time of the interview, and this was more likely to be the case among those working for large organisations, where the data indicated that levels of sickness absence were higher.

Other findings relate to:

- health and well-being services and benefits
- flexible working
- stress management
- job satisfaction
- worker engagement
- sickness absence
- retention.

As well as providing new evidence about sickness absence and organisations' policies in relation to OSP, the survey has shown that activities to promote the health and well-being agenda were present in organisations of all sizes. Such activities, however, were more prevalent in large organisations, especially those in the public sector and those with a trade union presence. This trend was also observed in the parallel employee survey undertaken for HWWB.

The challenge going forward will be to transfer the practices that are happening widely in large organisations to small and medium-sized enterprises, which are often less able to invest in this area and tend to have less structured systems of management in place

Health and Well-being at Work: a Survey of Employees

The Health and Well-being Employee Survey was jointly funded by the Health and Safety Executive (HSE) and the Cross-Government Health, Work and Well-being Strategy Unit (HWWB). This report presents the findings.

In March 2008, Dame Carol Black's review of the health of Britain's working age population was published. This review recognised the beneficial impact that work can have on an individual's state of health and that work is generally good for both physical and mental health. The response to Dame Carol Black's review was published in November 2008 and identified seven key indicators to develop baselines for and measure progress against.

The second of the indicators was 'improving the promotion of health and well-being at work', which has several sub-indicators:

- health and well-being initiatives and support
- flexible working policies
- stress management standards
- attendance management (in terms of helping employees back to work or making adjustments to jobs to keep them in work)
- employee engagement.

Health and well-being at work

Findings from this section of the survey reflect:

- health and well-being initiatives
- flexible working options
- attendance management
- stress management
- employee engagement.

Conclusions

This survey has provided baseline evidence of activity, across organisations of all sizes and in all sectors, for the indicator 'Improving the promotion of health and well-being at work' and several of its sub-indicators. There are some clear patterns in the data that show that provision is more prevalent in large organisations, especially those in the public sector and those with trade union presence.

The report suggests that the survey has provided evidence that may be of interest to policy makers responsible for the promotion of good work and employee engagement.

Levels of Respirable Dust and Respirable Crystalline Silica at Construction Sites

A study was undertaken to estimate inadvertent exposure of people to respirable dust and respirable crystalline silica (RCS) from construction activities in the urban environment. The findings are discussed in this report from HSE.

Main Findings

All operators at the sites were employing what they considered to be 'best' health and safety practice. It was noted that some controls, such as a hand pressurised water containers, do not work continuously because there is no indicator to signify when pressure is low. The intermittent effectiveness of these controls may increase worker exposure, but this was not confirmed by this study.

The air concentrations for respirable dust obtained using the HSL sampler were comparable with the results obtained by the local authority or UK air-monitoring network Tapered Element Oscillating Microbalance (TEOM) site measuring the environmental health related fraction PM10 (uncorrected by the factor 1.3). The regression coefficient (r2) excluding extreme values was 0.92.

The main crystalline components of urban air samples are quartz (SiO₂), calcite (CaCO₃), halite (NaCl), anhydrite (CaSO₄) and/or calcium sulphate hydrate (CaSO₄·0.5H₂O). Some urban air samples also showed peaks that indicated the presence of clays (illite and kaolinite) and probably hematite (Fe₂O₃). Many of the samples after ashing in a plasma-asher were orange in colour, which may confirm the presence of the hematite or another iron oxide.

Generally, the crystalline components on site mirrored the components in the urban air. This may indicate that construction activities, the natural geology, or dust from buildings in the area contribute to the mineral composition of an urban air sample. Samples from larger demolition sites also indicated the presence of some calcium silicates common to concretes and portlandite (Ca(OH)₂).

On average, the majority of the sample (by mass) from the urban air, general construction activities and road building operations was combustible or volatile (57 – 73 %) indicating it was probably mostly pollen or diesel fume. The samples from block cutting and demolition activities were mostly non-combustible/non-volatile material (53 – 58%), indicating a higher mineral content and therefore associated with the activity being monitored.

Overall, about 20 % of results (for an 8 – hour sample) exceeded the ambient UK air quality value for PM10 of 50 µg.m⁻³.

Despite dust controls, large-scale demolition projects, with excavators, have the potential to produce air concentrations of respirable dust in excess of 50 µg.m⁻³ (Maximum 226 µg.m⁻³). The report suggests this is probably because the contractors find it difficult to introduce effective and consistent dust controls because of the scale of the task.

The results for RCS and respirable dust were generally low for all the activities. Several samples from monitoring block cutting and demolition also obtained results for RCS in excess of 10 µg.m⁻³, which was probably due to inconsistent suppression of dust by the control. Despite the controls and practices employed by workers cutting blocks and bricks with cut-off saws, a couple of results from samplers (about 5 m from the activity) obtained results in excess of 10 µg.m⁻³. This may indicate that the controls used with cut-off saws are not meeting the requirements for effective suppression of dust specified in A Thorpe et al (1999).

Most sites (9 in 11 sites with reasonable data) showed evidence of the transport of RCS across the site to boundary and potentially into public areas.

RCS was identified in some of the urban air samples, although in most samples only one of the three peaks used for quantification was present. The estimated range of values for RCS from the urban air samplers was 0.1 – 0.44 $\mu\text{g.m}^{-3}$ and the maximum proportion of RCS in the respirable dust is estimated as 2%.

Summary

The air concentration values for RCS at the boundary of construction sites are low and rarely exceed 1/10th of the current workplace exposure limit of 0.1 mg.m^{-3} (100 $\mu\text{g.m}^{-3}$). This level of exposure to RCS would only make a significant contribution to a worker's exposure if the WEL were lowered to 50 $\mu\text{g.m}^{-3}$. It is likely that an individual, living in very close proximity (< 50 m) to a very large scale demolition, may obtain a measurable but very low exposure to RCS, however, demolition activities of short duration should not have a significant impact on their health since this is dependent on a long term exposure (approximately 15 – 20 years).

Recommendations

This was a small study to ascertain if levels of respirable dust and RCS at site boundaries are potentially significant, so the recommendations are limited, because they are based on small numbers of data.

The results from this study indicate that dust control may still be poor with very large-scale demolition activities and that this area may warrant further investigation. It is proposed to discuss these results with other researchers in the Building Research Establishment (BRE).