



Prosecutions

Fast Track Claim Win for Mesothelioma Sufferer

A 64-year old man suffering from mesothelioma, the fatal asbestos-related cancer of the lining of the lung, has won £181,000 compensation in just five months.

Thompsons Solicitors secured the compensation after he was diagnosed with the disease in March 2009.

The former operations manager was exposed to asbestos during the 1960s while working for Brightside Heating & Engineering, now known as Carillion (Singapore) Ltd, as a fitter's mate installing pipes in a building constructed for Westminster University in central London.

Thompsons pursued the claim through the Royal Court of Justice mesothelioma fast track system and reached an out of court settlement with Carillion.

Said the client: "I want to fight this disease. I know chemotherapy is available to me on the NHS which may extend my life by a few months, but could make me feel worse than I already do. The money means I can pay for private treatment abroad if I choose to."

Helen Jones from Thompsons Solicitors added: "This case shows how important it is for some mesothelioma sufferers to have the case concluded within their lifetime. By achieving a successful settlement our client now has the means to pay for alternative medical treatment if he chooses to."

Scrapyard Boss on Manslaughter Charges

A scrapyard manager has appeared in court charged with manslaughter following the death of a worker.

Robert Owen Roberts, appeared at Flintshire Magistrates' Court at Mold on 25 August 2009 charged with unlawfully killing Mark Wright, who was working at Deeside Metal in Saltney when he died in April 2005. He is also charged with gross negligence and breaching health and safety laws.

Mr Wright died in a fireball, after gas canisters he was asked to crush at the site exploded, causing 90% burns to his body. An inquest into his death in February this year revealed the canisters could still have contained at least 19.6kg of propellant.

During a brief appearance in court, Mr Roberts, who appeared on a summons, was unconditionally bailed to appear at Mold Crown Court on 18 September.

Mark Wright's parents, Dorothy and Doug Wright, are founder members of the campaign group Families Against Corporate Killers (FACK).

BUPA Lands Fine for Manual Handling Training Failures

The Health and Safety Executive (HSE) is warning carers and care home operators to ensure they follow the correct training and procedures for moving and handling elderly, frail or disabled patients.

This follows the successful prosecution of BUPA Care Homes (CFH Care) Limited, which was fined £15,000 and ordered to pay £10,500 costs by Wakefield magistrates after an 80-year quadriplegic fell from bed whilst being dressed by a lone, inexperienced care assistant.

Muriel Lindley suffered fractures to both legs in the fall at West Ridings Nursing Home, on Lingwell Gate Lane, Lofthouse, on 13 July 2008. She was admitted to Pinderfields Hospital where she died nine days later.

BUPA, which owns the Lofthouse home, pleaded guilty to a Section 3(1) breach of the Health & Safety at Work etc. Act 1974 in relation to the incident.



Magistrates heard that Mrs Lindley, a resident on the Swaledale Unit, was able to fall from her bed after protective guard rails were lowered to get her undressed, washed and redressed for the day ahead. This procedure, which requires a degree of rolling, should always be carried out by two properly trained carers, as was clearly defined in health and safety policies at the home and written assessments of the patient's individual care needs. However Mrs Lindley was instead tended to by a lone employee with limited knowledge and training in the moving and handling of residents. The employee in question had only started work on the unit six days earlier and did not complete the necessary formal training on patient handling until 22 July – the day Mrs Lindley died.

Dirty Dental Lab Puts Workers at Risk

The Health and Safety Executive (HSE) is urging companies not to ignore enforcement notices after a dental laboratory in Greater Manchester was ordered to pay £4,000.

Rossford Dental Laboratory Ltd, which is based on Chorley Road in Swinton, was served with an Improvement Notice in March 2008 after a HSE inspector visited the site and found it to be extremely unclean, putting the health of workers at risk.

The company pleaded guilty to breaching Section 33(1)(g) of the Health and Safety at Work etc. Act 1974, by failing to comply with the Improvement Notice within the two-month agreed deadline.

Rossford Dental Laboratory, which specialises in manufacturing dentures, gum shields and other dental products, was fined £2,500 and ordered to pay costs of £1,500.

HSE Inspector Matt Greenly said: "When I visited the site last year, I was surprised by the filthy state it was in and had no choice but to issue an Improvement Notice. It was especially disappointing as Rossford had previously received a similar Improvement Notice and had complied with it." However when he returned two months later there had been no improvement.

News

Research Reveals Public Sector Car Safety Concerns

Research by Fleet News has found that tens of thousands of county council employees are using their own vehicles for work without their employers carrying out even the most basic checks. Of the 30 county councils questioned, who between them employ 529,000 people and have more than 120,000 grey fleet drivers, not one inspects their grey fleet vehicles to ensure they are safe. More than half of the councils do not have a policy for checking grey fleet vehicles have valid MOT certificates.

This is in contradiction of Government advice, which states public sector managers should be 'carrying out documentation checks on driving licences, insurance cover and MOT certificates before allowing employees to drive their own vehicle for work, and then repeating these at regular intervals'. However, the majority of county councils rely solely on grey fleet drivers' honesty when they state that they have a safe and roadworthy vehicle.

The research has found that more than 77,000 county council grey fleet drivers are using their private vehicles for business journeys knowing their employers will not check safety-critical items such as tyres or windscreens, nor ask them to produce a valid MOT certificate.

The number of county councils that have a policy to check their grey fleet drivers have adequate insurance cover has also been discovered. Fewer than half (14/30) have a policy requiring employees to provide documentary evidence that they have business-use insurance that covers them for using their private vehicles for work. This means over 50,000 of the country's county council employees are driving their private vehicles for business without their employers checking what type of insurance cover they have.

Guidance

Warehouse Safety Advice

The GMB union has issued guidance on warehouse safety, primarily aimed at safety representatives. The guidance gives an overview of the main issues, such as:

- management responsibilities
- risk assessments
- manual handling
- radio frequency picking devices
- storing and moving of loads
- workplace transport
- bullying
- working at low temperatures.

There is also a checklist for safety representatives in warehouses

Reports

Reducing Uncertainty and Confusion in Small Businesses

Published by the Risk and Regulation Advisory Council (RRAC) this report from an independent advisory group set up by the Prime Minister has found that many small organisations are uncertain and confused about health and safety (H&S).

The report identified three key causes of this uncertainty and confusion:

- the multiplicity of different messages from legal and commercial partners, insurers and the media, as well as the government
- 'risk-mongers' – those who inflate perception of risks. For example, when H&S consultants exaggerate the severity or difficulty of risks, they get more work advising businesses on those risks
- lack of confidence in understanding and managing risks.

Background

H&S legislation is essential to provide protection for employees and the public. However, smaller organisations find it difficult to understand how to comply. Many struggle to conduct the workplace risk assessments required by law and to apply common sense and judgement to decide what H&S measures should be implemented. This lack of clarity, and confidence, has real and unacceptable costs for business and society, and makes good risk management difficult to achieve.



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Recommendations

The report makes 16 recommendations, including:

- HSE should work with the Association of British Insurers (ABI) and the British Insurance Brokers Association (BIBA) to jointly examine whether insurers are providing advice and guidance to their customers that leads to greater confusion about H&S requirements
- HSE and the Department for Work and Pensions (DWP) should examine whether a cost effective way of providing lower insurance premiums to low risk small organisations can be found
- bodies that regulate and represent the legal profession, including the Association of Personal Injury Lawyers (APIL) and the Law Society, should consider whether action short of regulation could be taken to stop no-win, no-fee lawyers from abusing the current light touch regulation in this area of law. If this is not possible the Ministry of Justice (MoJ) should consider options for statutory regulation
- HSE should review its inspection and enforcement approach to consider how they can create a culture of compliance and encourage firms to feel confident about asking for advice
- MoJ should examine how far personal injury litigation is being used to extend H&S law beyond the boundaries of the Health and Safety at Work etc. Act 1974. It should also re-examine pre-action protocols to determine whether they are imposing unnecessary administrative burdens on small organisations
- HSE should review the H&S compliance pre-qualification schemes in public sector procurement to: identify whether there is any evidence they are imposing unnecessary costs; roll-out best practice in the public sector that standardises H&S prequalification criteria where possible, working with relevant partners such as the Office of Government Commerce; use best-practice to open a debate with the Federation of Small Business (FSB), the Confederation of British Industry (CBI) and key trade associations on wider roll-out of this best practice
- HSE should work with strategic partners (such as the CBI, Institute of Directors, FSB, trades unions and trade associations) to ensure that small organisations have access to coaching or training that builds competence and confidence.

The HSE has pledged its commitment to taking the work forward and reducing the confusion that the RRAC has identified.