



Prosecutions

Legionella Prosecution after Vulnerable People put at Risk

The Health and Safety Executive (HSE) is warning companies responsible for carrying out legionella surveys on water systems of the need to ensure that their work is thorough and accurate.

The warning follows the conviction of a Berkshire-based water treatment company for carrying out inadequate and misleading surveys at nursing homes in Blaenau Gwent and Powys. As a result, vulnerable residents at the homes would have been at a heightened risk of contracting legionnaire's disease, a potentially fatal form of pneumonia.

At Abertillery Magistrates' Court on Thursday 6 August 2009, DEBA UK Ltd of Unit 15, The Metro Centre, Toutley Road, Wokingham, pleaded guilty to three charges under Section 3(1) of the [Health and Safety at Work etc Act 1974](#). They were fined £24,000 and ordered to pay costs of £17,276.

During 2007, the companies were commissioned to carry out legionella risk assessments at Nursing Homes operated by Craegmoor Healthcare in Tredegar and Llangattock, and rated the risk as low.

A subsequent routine check of these nursing homes revealed there to be inadequate controls for legionella at these premises, and the focus moved on to the work carried out by DEBA UK Ltd.

HSE inspector Matthew Hamar said: "The nursing home operators commissioned DEBA UK Ltd to carry out the surveys in good faith and to help them comply with their responsibilities to manage the risk posed by legionella on their premises. They were badly let down in this case.

"Elderly nursing home residents are at greater risk from the bacteria that give rise to conditions such as legionnaires disease, so it is imperative that safety critical surveys like those carried out by DEBA UK Ltd are adequate.

"Fortunately, there was no evidence of any outbreak of the disease as a result of these incidents, but there is a clear responsibility to those companies carrying out specialist work that they need to carry out adequate surveys and provide accurate information."

Legionnaire's disease is a potentially fatal form of pneumonia which can affect anybody, but which principally affects those who are susceptible because of age, illness, immunosuppression, smoking etc.

It is caused by legionella bacteria, which can grow in water kept at unsuitable temperatures (between 20°C and 45°C) and infect the water in cooling towers, whirlpool spas and purpose built hot and cold water systems, as found in care settings. Where conditions are suitable for the growth of legionella the risk is increased. There is a risk of disease when droplets of water, infected with the bacteria, are inhaled. Whilst showers may present a particular problem in care homes water droplets created from taps is also a potential source. Any equipment that can generate water droplets that could be inhaled should be assessed for potential risk.

HSE Asbestos Warning Following Prosecution

The Health and Safety Executive (HSE) is warning employers of the need to manage asbestos at their premises after a Canadian company were prosecuted for potentially exposing employees and contractors to carcinogenic fibres at their Swansea plant.

Vale Inco Europe Ltd pleaded guilty, on 9 June 2009, at Swansea Magistrates' Court, to four charges under the Control of Asbestos Regulations 2006 in relation to refurbishment work being carried by a contractor, A-Weld, on a furnace at the company's premises in Clydach.

At Cardiff Magistrates Court on Thursday 6th August 2009, Vale Inco Europe Ltd was fined £12,000 and ordered to pay costs of £28,000.



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The company had carried out asbestos surveys on the buildings on their site, but had not surveyed the interior of plant and equipment. As a result, asbestos insulation material within the reformer furnace was disturbed and broken, giving rise to powder and fibres, which posed a greater risk.

Workers discovered a white material they suspected of being asbestos, and a sample was sent for analysis, but the site was not isolated and work was allowed to continue until the results of the tests confirmed that the material was asbestos.

However, whilst the company then followed advice from a licensed asbestos contractor to damp down the area, the men originally working on the furnace had removed their overalls and external clothing in an area in which no-one was wearing masks or protective equipment.

HSE Principal Inspector Andrew Knowles said: "There are numerous failures in this case, including the failure to assume that asbestos would be present in the reformer furnace unless it could be proved that it was not. Knowledge that asbestos insulation was present would have resulted in a licensed contractor being used to remove the material and prevented these workers coming into contact with asbestos at all.

"Another important aspect was the failure to provide asbestos awareness training for employees, which is a specific requirement where asbestos may be present in a workplace".

Successful UK Mesothelioma Claims

Although there is no central UK database of asbestos personal injury claims, information on the following cases with successful outcomes in mesothelioma during 2009 is available in the public domain:

- a 57-year old gardener was awarded in June £205,000 by the High Court after a case against his former employer, the University of Liverpool
- the widow of a 64-year old electrician received £250,000 in compensation from Southern Electrical Contracting Ltd in June
- the widow of a 76-year old Ministry of Defence shipyard worker from Devonport Dockyard, Plymouth obtained £140,000 in May
- the widow of a former chemistry teacher received £290,000, 18 months after her husband's death at age 61, from East Sussex Council in March
- a former plumbing apprentice, Colin Gardner, was awarded £145,000 by the High Court in his claim against Royal and Sun Alliance Insurance plc in March.

News

Greater Protection for Disability in the Workplace

A landmark ruling by the House of Lords ensures that people with disabilities will now get greater protection from discrimination, according to the RoSPA Occupational Safety and Health Journal (August 2009).

The three law lords ruled that people with a physical or mental condition which varied in its severity over time should still be termed disabled if it was likely their condition would become substantial again in the future. The ruling states that the word 'likely' as used in the [Disability Discrimination Act 1995](#) (DDA) means 'could well happen'.

Lord Rodger of Earlsferry said: "Where it is 'likely' that an impairment would have a substantial adverse effect on the person's normal day-to-day activities, but for the measures by way of treatment or correction, then the impairment is to be treated as having that substantial effect."



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The ruling referred to the case of Elizabeth Boyle who alleged she had been discriminated against by her former employer of 32 years, SCA Packaging, because of her disability. She was employed as a buyer/stock controller at the company and had nodules on her vocal chords which she managed with a strict regime, including speech therapy and only speaking very quietly.

In 2000, SCA Packaging removed the partitions near her desk, despite opposition from Mrs Boyle and her surgeon. Mrs Boyle argued that the resulting increase in noise levels would have a substantial adverse effect on her health.

In October 2001, the case went to an Industrial Tribunal and five months later she was made redundant. At the tribunal SCA Packaging argued that it did not discriminate against Mrs Boyle because she was not disabled under the DDA, as her condition no longer had an adverse effect on her life.

The ruling has implications for people with a wide variety of disabilities and chronic illnesses. For example, according to Susie Uppal (Director of Legal Enforcement at the Equality and Human Rights Commission), many people who have chronic conditions such as epilepsy, rheumatoid arthritis or diabetes, do not define themselves as disabled as they can manage the symptoms or they are in remission. "However," she comments "it is important that these people are recognised as being disabled under law so they get the protection they need to prevent their conditions recurring and their quality of life suffering as a result."

Holiday Stress as More People Unable to 'Switch Off'

A survey has revealed that small to medium sized businesses around the UK have a trend of workers unable to disconnect from the office totally, even when on annual leave.

35% of people asked said that they would be contacting the office while on holiday this summer and 38% of people stated they would check in 'a few times'. 22% of people said that they may be touching base up to once a day and 8% admitted that they may contact their office several times a day.

Main reasons for this are down to the inability to switch off and people wanting to ensure their return to work is not too hard after the holiday. Almost one quarter of people said that they "just can't disconnect completely from work" the survey by Eurooffice.co.uk stated.

Simon Drakeford, group CEO of Eurooffice, commented: "Our survey reveals that many diligent office workers are finding it increasingly difficult to leave their work behind and relax while taking their annual leave. Ultimately, the extra stress will begin to take its toll – and this can negatively affect employees as well as the business."

Fine Reduced for Ill Dreamspace Artist

Maurice Agis, 77, of east London, who created the Dreamspace inflatable artwork which blew away, killing two women, has had his fine reduced from £10,000 to £2,500.

The incident, which happened in 2006, also injured 13 people and Mr Agis was convicted for breaching health and safety laws.

He has since appealed, stating that it is beyond his capacity to pay the fine.

After hearing that Mr Agis has been hospitalised since the end of July, the Court of Appeal reduced the fine by £7,500.

The 2,500-sq-m inflatable artwork, which consisted of inflatable rooms and tunnels, had broken free from its moorings injuring many of those inside. Mr Agis had been charged with manslaughter but the jury was discharged after failing to reach a verdict.

Mr Justice Griffith Williams and Mr Justice King, said: "We, of course, are very conscious that it bears no reflection of what happened and cannot even begin to reflect the suffering to which the [trial] judge referred.

"However, these are very unusual circumstances and we are dealing with a very elderly appellant who is very ill."



Reports

Analysis of Isocyanates and other Hazardous Workplace Chemicals

The Health and Safety Laboratory has prepared for the Health and Safety Executive (HSE), this report which considers the potential use of the recently developed Matrix Assisted Laser Desorption Ionization/time-of-flight/mass spectrometry (MALDI/TOF/MS) technique for the analysis of isocyanates and biocides.

Background

Mass spectrometry is a well established technique for measuring concentrations of hazardous chemicals encountered in the workplace and it can be combined with other techniques to provide a greater degree of sensitivity, selectivity and accuracy.

In this document, the results of a study using a novel application of the MALDI/TOF/MS technique are reported. It involved the analysis of isocyanates on filters (to represent air monitoring) and as isocyanate protein conjugates (to represent biological monitoring), along with the analysis of some biocides bound to soil samples (to represent examples of chemicals linked to more complex matrices).

The work, which was funded by the HSE, was undertaken in collaboration Sheffield Hallam University. Its objectives, inter alia, were to utilise the new technique to:

- help define good practice under the mandatory [Registration, Evaluation, Authorisation and Restriction of Chemical Substances \(REACH\)](#) chemical control programme
- help assess substances of concern with regard to their health effects as part of the Disease Reduction Programme (DRP)
- provide an evaluation of 'secondary' human exposure through the environment.

Isocyanates are widely used in the automotive repair and other industries. They were chosen for analysis because they are highly reactive and represent a major cause of occupational asthma in this country. The soil-bound biocides were analysed to illustrate the novel application of MALDI/TOF/MS as an extractor.

Results

The principal findings were as follows:

- MALDI/TOF/MS was found to be a suitable technique for analysing protein conjugates derived from isocyanates and for analysing inflammation pathway metabolites in biological samples
- further work will be needed to develop the quantitative biological methods employed in this study
- for monitoring concentrations of isocyanates in air in the workplace, and for monitoring the presence of biocides in a complex environmental media such as soil, MALDI/TOF/MS complements existing analytical techniques, such as gas and liquid chromatography.

Non-Agricultural Products Approved via HSE's Chemicals Regulations Directorate

This document, produced by the Health and Safety Executive (HSE), contains details of the Executive's Chemicals Regulations Directorate's approval of a variety of non-agricultural products. The information is provided by the HSE as part of its management of the [Control of Pesticides Regulations 1986](#).

It covers such products as rodenticides, insecticides, anti-fouling agents and wood preservatives. Each product approved is assigned a specific HSE number and, for each, the document provides the following information:



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Approval

- marketing company
- active ingredient
- formulation.

Conditions

- application method
- container.

Use

- field of use
- user
- application rate.

Precautionary phrases

Precautionary phrases

- for amateur labels
- for professional labels.
- An example (a rodenticide) is given below:

Rodetox Pasta Bait – HSE 8939 (Rodenticide)

Approval

- marketing company – Schippers UK Ltd
- active ingredient – Brodifacoum (0.005% w/w)
- formulation – paste bait.

Conditions

- application method – bait
- container – up to 20g (amateur), up to 10kg (professional).

Use

- field of use – for use against mice only (amateur) and against mice and rats (professional)
- user – amateur/professional
- application rate – apply as necessary.



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Precautionary phrases (amateur label)

- avoid all contact by mouth
- prevent access by children, birds and non-target animals (especially dogs, cats, pigs, etc)
- during treatment, search for and remove rodent bodies at frequent (depending on formulation and treatment regime) intervals
- after treatment, collect and dispose of remains of bait and rodent bodies
- waste should be double-bagged in bin liners or similar and be placed in a bin with a secure lid to prevent accidental poisoning. If this is not possible, a specialist contractor or the local authority should be contacted
- harmful to wildlife
- for indoor use only
- do not place bait where it could contaminate food, feed or water
- product contains substances known to be hazardous to the environment – avoid contaminating ground, surface waters or watercourses with the chemicals or used container

Precautionary phrases (professional label)

- for use only by professional operators
- the Control of Substances Hazardous to Health Regulations 2002 (COSHH) may apply to the use of this product at work
- avoid all contact by mouth
- prevent access by children, birds and non-target animals (especially dogs, cats, pigs, etc)
- during treatment, search for and remove rodent bodies at frequent (depending on formulation and treatment regime) intervals
- after treatment, collect and dispose of remains of bait and rodent bodies
- ensure you comply with the appropriate legislation covering the disposal of waste. Contact your local Environment Agency or Scottish Environment Protection Agency (SEPA) office for further guidance
- harmful to wildlife
- for indoor use only
- do not place bait where it could contaminate food, feed or water (except use in sewers)
- product contains substances known to be hazardous to the environment – avoid contaminating ground, surface waters or watercourses with the chemicals or used container

Legislation

European Documents

Council Directive 2009/82/EC amending Directive 91/414/EEC to include tetraconazole as an active substance
Official Journal L196 28/07/09

2009/562/EC Council Decision concerning the non-inclusion of metam in Annex I to Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance
Official Journal L196 28/07/09

Regulation (EC) No 661/2009 of the European Parliament and of the Council concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefore
Official Journal L200 31/07/09

Directive 2009/76/EC of the European Parliament and of the Council relating to the driver-perceived noise level of wheeled agricultural or forestry tractors (Codified version)
Official Journal L201 01/08/09



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Directive 2009/79/EC of the European Parliament and of the Council on passenger hand-holds on two-wheel motor vehicles (Codified version)
Official Journal L201 01/08/09

Commission Directive 2009/90/EC laying down, pursuant to Directive 2000/60/EC of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status
Official Journal L201 01/08/09

Commission Directive 2009/92/EC amending Directive 98/8/EC of the European Parliament and of the Council to include bromadiolone as an active substance in Annex I thereto
Official Journal L201 01/08/09

Commission Directive 2009/93/EC amending Directive 98/8/EC of the European Parliament and of the Council to include alphachloralose as an active substance in Annex I thereto
Official Journal L201 01/08/09

Commission Directive 2009/94/EC amending Directive 98/8/EC of the European Parliament and of the Council to include boric acid as an active substance in Annex I thereto
Official Journal L201 01/08/09

Commission Directive 2009/95/EC amending Directive 98/8/EC of the European Parliament and of the Council to include aluminium phosphide releasing phosphine as an active substance in Annex I thereto
Official Journal L201 01/08/09

Commission Directive 2009/96/EC amending Directive 98/8/EC of the European Parliament and of the Council to include disodium octaborate tetrahydrate as an active substance in Annex I thereto
Official Journal L201 01/08/09

Directive 2009/80/EC of the European Parliament and of the Council on the identification of controls, tell-tales and indicators for two or three-wheel motor vehicles (Codified version)
Official Journal L202 04/08/09

2009/C182/05 Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council concerning type-approval requirements for the general safety of motor vehicles'
Official Journal C182 04/08/09

2009/C182/09 Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on machinery for pesticide application, amending Directive 2006/42/EC of 17 May 2006 on machinery'
Official Journal C182 04/08/09

2009/C182/17 Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on certain components and characteristics of wheeled agricultural or forestry tractors' (Codified version)
Official Journal C182 04/08/09

Directive 2009/61/EC of the European Parliament and of the Council relating to the installation of lighting and light-signalling devices on wheeled agricultural and forestry tractors (Codified version)
Official Journal L203 05/08/09

Directive 2009/68/EC of the European Parliament and of the Council on the component type-approval of lighting and light-signalling devices on wheeled agricultural or forestry tractors (Codified version)
Official Journal L203 05/08/09

Commission Directive 2009/98/EC amending Directive 98/8/EC of the European Parliament and of the Council to include boric oxide as an active substance in Annex I thereto
Official Journal L203 05/08/09
Commission Directive 2009/99/EC amending Directive 98/8/EC of the European Parliament and of the Council to include chlorophacinone as an active substance in Annex I thereto
Official Journal L203 05/08/09.