



Prosecutions

Company Fined £2,500 After Worker Loses Two Fingers

A plastics-recycling company in Liverpool has been fined £2,500 after a worker had four fingers cut off by a guillotine.

The Health and Safety Executive (HSE) prosecuted Centriforce Products Ltd following the incident at the company's premises on Derby Road near the city's docks on 26 May 2008.

The court heard that Wesley Dickinson, from Walton, had been trying to remove a jam in the guillotine when his fingers became trapped. Doctors were able to reattach two of his four fingers and he now has very limited movement in his right hand.

Centriforce pleaded guilty to breaching Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998 at Liverpool Magistrates' Court. The company was ordered to pay £2,438 towards the cost of the prosecution in addition to the fine.

HSE Inspector Martin Paren said:

"This incident has had a devastating impact on Mr Dickinson, who is only in his early 20s. He cannot return to his old job and will not be able to do manual work in the foreseeable future, due to the limited strength and movement in his right hand.

"The company should have had a guard on the guillotine to prevent workers from reaching the blade. An automatic mechanism should also have been in place so that the power was cut if the guard was opened.

"Instead Mr Dickinson wrongly assumed that a colleague had switched the guillotine off, and he had four fingers cut off as a result."

Salus Be Wise

The Provision and Use of Work Equipment Regulations 1998 (PUWER 98) apply to all tools, machinery, plant and equipment used at work ('work equipment'). Borrowed equipment being used for a work activity is also covered. In terms of work equipment that is lifting equipment, this will be subject to the requirements of LOLER 98 where lifting parts are concerned, and PUWER 98 for the remainder.

Under PUWER 98, work equipment must be suitable. Modern machinery should be 'CE' marked and accompanied by an instruction manual containing information on the normal conditions of use of the machine.

Under the Management of Health and Safety at Work Regulations 1999 (Management Regulations) Regulation 3, risk assessments should be carried out to identify any significant risks from the use of the work equipment. PUWER 98 requires that work equipment that is exposed to conditions causing deterioration liable to result in dangerous situations is inspected at appropriate intervals so that any deterioration can be detected and attended to.

The Salus service offers a range of tools that can help.

The above incident could have been prevented through many means, including:

- legislation (Provision and Use of Work Equipment Regulations 1998)
- guidance (HSE guide on PUWER 1998)
- approved code of practice and guidance (Safe Use of Work Equipment)
- guide (Simple guide to PUWER 98)
- Salus guide (Work Equipment)
- Salus guide (Risk Assessment of General Workplace Hazards).



Company Fined £4,500 After Telehandler Overturns Injuring Worker

A construction company from Gateshead has been ordered to pay £4,500 after one of its workers was seriously injured when a forklift truck telehandler he was operating overturned.

The Health and Safety Executive (HSE) prosecuted Meldrum Construction Services Ltd following the incident at its site at Holly Hall, Sandhoe, near Corbridge, in Northumberland, on 16 July 2008.

The company, which is based at Durham Road, Birtley pleaded guilty to breaching section 2(1) of the Health and Safety at Work etc. Act 1974 at Tynedale Magistrates' Court in Hexham. It was fined £4,500 and ordered to pay costs of £2,342.20 and a victim surcharge of £15.

The court heard that Tom Lincoln, of Dudley, Northumberland, was lifting roof trusses onto the roof of the development when the forklift truck telehandler that he was operating overturned. The machine fell onto its side throwing Mr Lincoln against the machine's window and controls.

Mr Lincoln was not trained to use the machine and was not wearing a seat belt when the incident happened. He suffered multiple fractures to his right arm, leaving him with limited mobility in his shoulder. He still requires medical treatment and is unable to return to his job.

After the case, HSE Construction Inspector John McGill, said:

"Mr Lincoln has suffered long term injuries as a result of this serious incident. Meldrum Construction Services Ltd failed to ensure that Mr Lincoln had the necessary training to use the machine and had not reviewed its processes to ensure that unauthorised personnel did not have access to specialist machinery on site.

"While the company had produced a risk assessment and a system of work for lifting the roof trusses, neither were sufficient, nor had failed to identify the dangers that workers would face."

Following the incident, the company changed its working procedures to make sure that only trained staff were able to access and operate site machinery.

Sub-Contractor Fined £3,500 After Worker Falls

A roofer broke his leg, ankle, wrist and nose after falling eight metres through a fragile roof at an industrial unit in Birmingham.

Paul Leggett was working as a sub-contractor for Ian Griffiths, who had been contracted to repair leaks on the roof of the unit. On 8 October 2008, Mr Leggett and a colleague were repairing cracks in the unit's asbestos-cement roof. Mr Leggett was standing on a single crawling board on the roof and, as he bent over, he lost his balance and fell through the roof.

Griffiths appeared at Birmingham Magistrates' Court on 18 December 2009 and pleaded guilty to breaching reg.4(1)(c) and 6(3) of the Work at Height Regulations 2005, for failing to ensure the work was carried out in a safer manner, and not taking suitable steps to prevent an accident. He was fined £3,500 and ordered to pay £1,408 in costs.

The HSE visited the site on the day of the incident and issued a Prohibition Notice, which required Griffiths to create a new method statement, and invest in suitable safety equipment for working at height.

HSE inspector Mike Ford said: "Mr Leggett was lucky to survive falling 26 feet through the roof, landing on the concrete floor below. The equipment provided to these men and the system of work used were completely inadequate. The precautions taken to ensure their safety fell far short of what is acceptable."

Inspector Ford concluded: "Working at height remains a major cause of death and injury at work in Great Britain. Employers must ensure the correct precautions are taken and the right equipment is used."



Firm Fined £16,000 After Worker's Five Metre Plunge

A company has been fined a total of £16,000 after a worker fell five metres at a construction site in Tunbridge Wells and suffered severe injuries.

The Health and Safety Executive (HSE) prosecuted ECH Ltd - trading as Maple Timber Frames and registered in Preston, Lancashire - after an incident on 18 November 2008.

A self-employed timber frame erector subcontracted to the company, was working at height on a self-build project at Warwick Park, Tunbridge Wells, when he fell some five metres to the bottom of an inadequately covered stairwell. He suffered multiple fractures, including his skull. A colleague working with the injured man was unharmed in the incident.

At Sevenoaks Magistrates' Court, ECH Ltd, pleaded guilty to breaching sections 2(1) and 3(1) of the Health and Safety at Work etc. Act 1974. The company was fined £16,000 and ordered to pay £5,000 towards the HSE investigation costs.

Melvyn Stancliffe, Inspector of Health and Safety, said:

"I would echo the magistrates' statement that these were reckless breaches of the law. The injured man is extremely lucky - despite the severity of his injuries. This sort of fall could easily have killed him. It is all the sadder because it should have been prevented if ECH Ltd had heeded simple safety advice."

Case Law

Contractors Plant Association Standard Terms and Conditions Do Not Stand Up

A 'hirer' was undertaking work at an electricity sub-station in Newton Abbott and hired a large mobile crane from 'the Owner'. The crane was supplied with an experienced operator.

On the first day of the hire the operator had an accident when he stepped off the tool box after having failed to leave the crane in line with the chassis.

The operator brought a claim against the Owner for damages for personal injuries, loss and damage caused by their negligence and/or breach of statutory duty. The claimant accepted that he had been 25% contributory negligent but the claim was then compromised by the Owner agreeing to pay the operator £50,000.

The Owner brought third party proceedings against the Hirer. The CPA agreement for the hiring of plant made between the Owner and Hirer states that '....operators or persons shall for all purposes in connection with their employment in the working of the plan be regarded as the servants or agents of the Hirer.... Who also shall be responsible for all claims arising in connection with the operation of the plan by the said drivers/operators/persons'.

The Court found that the clause envisaged claims arising out of negligent handling which causes injury or loss to a third party. Although the operator was undertaking the business of the Hirer, he remained the servant of the Owner, and the Hirer would not be vicariously liable for his actions. Clause 8 of the agreement provided that if a competent operator was supplied, the operator would be treated as a servant of the Hirer and the Hirer would be responsible for claims arising out of the operation of the plant. This Clause aimed to regulate the liability between Owner and Hirer but it did not contemplate making the Hirer liable for a claim arising out of the Owner's own negligence. Due to precedents, the Court found that Clause 8 did not make the Hirer responsible for the claim against the Owner regarding the Owner's own breach of duty.

Clause 13 stated that the Hirer must 'fully and completely indemnify the Owner in respect of all claims by any person whatsoever for injury to personal property caused by or in connection with or arising out of the ... use of the plant during the continuance of the hire period...'

With reference to Alderslade v Hendon Laundry Ltd [1945] K.B 189, 192 and Canada Steamship Lines Ltd v The King [1952] A.C. 192, 208, amongst others, it is found that the Owner cannot claim to be indemnified under Clause 13 for the injuries to its driver arising out of the use of the plant during the continuance of the hire period when that damage arose due to its own negligence.



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The judge found that the Owner was in breach of regulation 6(1) of the Construction (Health, Safety and Welfare) Regulations 1996 – namely the requirement that suitable and sufficient steps be taken to prevent, so far as is reasonably practicable, any person falling. Due to this finding, the appeal found that this led to the conclusion that the failure to take such steps was negligent.

The appeal found that the concept of a breach of statutory duty goes hand in hand with negligence. As such, the Appeal found that the Owner could not seek an indemnity for its own negligence or its own breach of statutory duty and as such had no valid claim under either Clause 8 or 13.

The Appeal was subsequently dismissed.

News

Recession is Putting Construction Safety in Peril

Research by Mactavish suggests that the recession could be undermining recent improvements in construction safety.

Key findings include:

- intense cost-cutting has increased risks for many. Widespread reductions in Health and Safety spending, site supervision resource and less pre-qualification checking have increased risk
- forced diversification of work and a flight to public sector work with companies taking on risks such as asbestos exposure or working in derelict buildings
- unprecedented levels of mothballing of existing construction sites also creates new risks around arson, vandalism and dangers to public safety.

Bruce Hepburn, CEO said: "The recession has already had a brutal impact on the construction sector and continues to place huge stresses on companies within it. Desperate bidding for contracts is a particular concern, creating knock-on risks that are not fully realised."



Guidance

Coping in Snow and Ice: Advice to Employers

The CIPD have said employers must be flexible during the harsh weather conditions and should not force staff to 'risk life and limb' getting to work. With schools across the country closed, many parents have been left with care problems, and with trains being cancelled and motorists being warned only to make essential journeys many staff have been unable to get to work or have opted to work from home.

Whilst many people may not be able to travel to their workplaces; business does not have to stop entirely. With good business continuity and safety policies in place, together with a good communication system, business can continue to operate.

Employers have many things to consider, including safety within the workplace, minimum temperatures (see below for our Do Not Forget box), arrangements if the office needs to close, business continuity, the safety of employees (plus the general public and contractors) and ensuring good communication.

These aspects are featured in more detail below.

It may be necessary to make quick decisions about closing the office or sending people home. These should be made considering risks and hazards, likelihood and severity, and ensuring that safety always comes first. You may wish to make decisions in conjunction with your health and safety representative and office manager.

Advice to Those with Responsibility for Health and Safety

At times of extreme and dangerous weather it is essential that communication is retained throughout the workforce. Staff must be instructed as to what company policy is, how to follow it and who to communicate with if they have any queries. A model policy is available, from Barbour, which can be tailor-made for your company's individual needs.

A number of health and safety issues may need to be addressed:

- risk assessment - it must be made clear who the final decision makers are in times of bad weather, in terms of when people should leave the workplace or if a workplace should close down entirely for a specified period. The five stages of risk assessment should be applied, as always, and a decision made by a competent person
- safety in the workplace - with fewer people in the workplace, lone working situations may arise and it should be ensured that communication is maintained with any employees in this situation and that non essential high risk tasks are avoided. Consideration should also be given to vulnerable workers such as pregnant and disabled employees
- emergency arrangements - due to low staffing levels consideration needs to be given to arrangements for dealing with emergencies such as failures of safety critical systems, persons trapped in lifts, first aid incidents, fire evacuations, power failures, workplace temperatures falling below the minimum guidelines etc (see Do Not Forget)
- working from home - this type of working might be seen as a solution, but employers should be aware that it is also their responsibility to ensure their employees' health and safety if they are working from home. Home working risk assessments should be undertaken to ensure employees are able to comfortably and safely work from home
- driving for work - it should be ensured drivers are allowed extra time to complete journeys and factor in alternative routes and that they are not pressurised to complete any journeys made dangerously difficult by the weather. A detailed guide is available
- slips trips and falls - walking to and from car parks or between buildings at work during this weather requires special attention to avoid slipping and falling. Slips and falls are some of the most frequent types of injuries during the winter months. Employees should be reminded to avoid boots or shoes with smooth soles and heels, such as plastic and leather soles and instead, wear a pair of well insulated boots with good rubber treads and to walk slowly and with shorter steps when on icy surfaces. Main pathways and steps should be cleared as far as possible of snow and ice to allow safe access to the buildings. Employees should be reminded to remove as much snow and water from their boots as they can when entering



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buildings as water from melting ice on the floor can also lead to slippery conditions. updates - any company specific news should be sent out by email and published on any intranet sites

- employees trapped at work - employers should keep an eye on the weather throughout the day, taking care that employees don't get trapped at work and put at risk if snow starts to fall. Communication lines need to be in place to ensure a workplace can be closed down relatively quickly if necessary
- contractors - it is important to consider contractors, freelancers and part time staff. Make sure you have a list of ways to contact all people who usually work within your workplace
- members of the public - ensure that suitable and sufficient signage is displayed to inform the public of important information
- PPE - if outdoor working is required, ensure that suitable and sufficient PPE is provided, including suitable gloves control methods reasonable methods to lower risk, where possible. Methods should be put in place for lone and home working (as above).

Do Not Forget

- communication is paramount. Make sure everyone is kept informed of changes
- contractors, freelancers and part time workers may also need contacting
- it is important to consider inside temperature and comfort for staff. Workplaces should not drop below 16 degrees Celsius (13 degrees Celsius where work requires severe physical effort)
- snow and ice are hazards that may result in slips, trips and falls. Advise staff of the correct footwear, use signage where possible, and ensure that icy surfaces are gritted accordingly
- driving to and from the workplace can be dangerous in times of extreme weather.

Further Information

The TUC has also advised companies to ensure they have a bad weather policy, which sets out what is expected of staff and what they should do when snow, ice and a lack of transport prevents them from getting to work. A model policy is available, which can be tailor-made to your companies needs. Information on weather conditions is available from the Met Office or local radio broadcasts.

Public transport service updates and information on disruptions due to the snow and ice conditions are available on rail and bus operator's websites. Traffic updates and important travel information can be found at the AA.



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Coping in Snow and Ice: Advice to Employees

It is vital that all members of staff are vigilant at times of extreme weather. Your health and safety and the safety of those around is your responsibility too. Use caution, and contact your health and safety representative if you are unsure about anything. If you feel that your safety, of the safety of others around you is compromised, you must inform your employer.

- policies – make sure that you have read and understood any policies or advice issued by your company about local rules and procedures in the event of snow and ice
- travel – when travelling to work, leave extra time for your journey and ensure that your car is prepared for the weather. Please see the Barbour Guide on driving in snow and ice for more information. Keep in communication with your health and safety representative when and where possible
- slips, trips and falls – walking to and from car parks or between buildings at work during this weather requires special attention to avoid slipping and falling. Slips and falls are some of the most frequent types of injuries during the winter months. You should be reminded to avoid boots or shoes with smooth soles and heels, such as plastic and leather soles and instead, wear a pair of insulated boots with good rubber treads and to walk slowly and with shorter steps on icy surfaces. Main pathways and steps should be cleared as far as possible of snow and ice to allow safe access to the buildings. You should also be reminded to remove as much snow and water from your boots as you can when entering the buildings, as water from melting ice on the floor can also lead to slippery conditions
- updates – any company specific news should be sent out by email and published on any intranet sites
- contact – ensure you have contact details of people within the company, in case you are unable to go into work
- home and lone working – ensure you have read and understood information concerning home or lone working
- parking – where possible park in a safe and well-lit area, within a short walking distance of your workplace
- clothing and footwear – ensure you have ample extra clothing and suitable footwear for ice and snow. Footwear should have grips, and heels should be avoided in deep snow and ice. See slips and trips above
- travelling home – when leaving your workplace in bad weather, make sure you have fully-charged your mobile telephone, plenty of fuel in your car and that you have consulted relevant guidance. You should inform someone of what time you can expect to arrive, taking into account hazardous driving conditions.