

Prosecutions

Southport Shopfitter's Finger Severed in Rotating Saw

A Southport-based shopfitting firm has been sentenced after one of its employees' fingers was severed in a rotating saw.

Darren Mawdsley was trimming oak planks when a piece of wood caught on the blade of the circular saw, pulling his index finger into the machine. The 37-year-old from Southport was taken to hospital and his finger was amputated at the knuckle the following day.

North Sefton Magistrates' Court in Southport was told the guard for the saw was resting on a table at the side of the machine when the worker's finger was severed.

The HSE investigation found the company had carried out a risk assessment for the saw but this had not been passed on to its employees. The injured worker had never been given any training by the company on using the saw, and no warning signs were on the machine.

Mentha and Halsall Shopfitters Ltd pleaded guilty to breaching Regulation 8(1) of the Provision and Use of Work Equipment Regulations 1998 by failing to provide adequate instructions for using the saw. It was fined £3,000 and ordered to pay £3,498 in prosecution costs on 14 June 2011.

Speaking after the hearing, the investigating inspector at HSE, Phil Redman, said:

"These kinds of incidents are all too common in the manufacturing industry and sadly result in workers suffering life-long injuries.

"Good health and safety isn't about filling in forms. It was pointless for the company to carry out a risk assessment if they weren't going to pass it on to their staff.

"No instructions or training were provided to Mr Mawdsley on how to use the saw safely, and supervision in the workshop appeared to be minimal. If the shopfitting company had done more to protect the safety of its employees then one of them wouldn't have lost a finger."

Man Fined for Carrying out Illegal Gas Work

A Solihull man has been prosecuted by the Health and Safety Executive (HSE) for carrying out gas work at an elderly widow's home without being registered to do so.

David Jonathon Jackson, of Winward Way, Smiths Wood, claimed to be CORGI registered when he installed a gas fire and a gas water heater in the pensioner's lounge and kitchen between 1 March and 30 April 2008.

Nuneaton Magistrates' Court heard Mr Jackson submitted a quote and an invoice with a false CORGI registration number. Engineers undertaking gas installation and maintenance work must be registered with the industry body. At the time of the incident this was CORGI. The approved body is now Gas Safe Register.

The widow, who is in her seventies and lives alone in North Warwickshire, subsequently raised concerns about the quality of his work and HSE carried out a joint investigation with the Gas Safe Register.

Mr Jackson pleaded guilty to breaching Regulation 3(3) and Regulation 3(7) of the Gas Safety (Installation and Use) Regulations 1998 and was fined £400 and ordered to pay £500 costs.

HSE inspector Peter Snelgrove said, "**It is illegal for an unregistered person to carry out any work on gas appliances.** Although Mr Jackson knew this, he went ahead with the job and even gave the householder paperwork with a false registration number to convince her that he was properly qualified.

"Working with gas appliances is difficult, specialised and potentially very dangerous. Poorly-installed gas work can cause explosions or carbon monoxide poisoning, which can be fatal and can also cause serious long-term health problems."

Paul Johnston, Chief Executive of Gas Safe Register, added, "All too often our investigations team finds illegal gas fitters specifically preying on the elderly, offering discounted OAP rates and using charm tactics. Many use the Gas Safe logo on their van, adverts or paperwork when they are not registered.

"With a quarter of a million gas jobs carried out every year by illegal gas fitters who don't have the skills or the qualifications to work safely on gas, it is vital that householders always check that the engineer they use is on the Gas Safe Register, or they could be putting their lives and pocket at risk."

Girl Trapped in Swimming Pool Results in Fine

Castle Point Borough Council has been prosecuted by the Health and Safety Executive (HSE) following an incident where a seven-year old girl was trapped by a water outlet at the Waterside Swimming Pool on Canvey Island.

On 2 May 2009, a seven-year old girl was using the swimming pool with her great grandfather at Waterside Farm Leisure Centre. Her hair was sucked into the water sampling outlet on the side of the pool, trapping her underwater for two minutes and 36 seconds. Her great grandfather had to pull a clump of hair from her head in order to free her. She was unconscious when she was finally taken out of the water, limp and blue in colour, but came round once laid on the poolside.

HSE told Basildon Magistrates' Court today that Castle Point Borough Council, which owns and runs the swimming pool, had not managed the risks to members of the public using it. In particular the council failed to ensure that the sample outlet had two vents so if one became blocked the other vent would take the pressure off the suction. There were too few lifeguards on duty and of the two that were working, one was cleaning and the other could not see the whole pool due to the glare from sunlight reflecting on the water.

After the hearing, HSE Inspector Nicola Surrey said:

"This incident was extremely traumatic for the young girl and her great grandfather and it could have had far more serious consequences. Managed properly, swimming pools are a place for fun and exercise yet the council put pool users at risk of entrapment by not properly maintaining the water outlets."

Castle Point Borough Council from Kiln Road, Benfleet, Essex pleaded guilty to breaching section 3(1) of the Health and Safety at Work etc. Act 1974 and was fined £18,000 and ordered to pay costs of £7,500.

£60k Fine for 'Entirely Preventable Tragedy'

A textile company failed to ensure that staff followed a safe system of work when cleaning a baling machine, which was involved in a fatality.

Bradford Crown Court heard that Gary Lee, 40, worked as a general operative at Westwood Yarns Ltd's factory in Holmfirth, West Yorkshire, when the incident took place on 3 January 2008. He was asked to clean a baling machine, which processes loose fibres into yarn, despite not being trained how to do so. He was given a brief demonstration of how the machine worked and was not instructed how to isolate the machine.

The company originally had a safe system of work in place, which required the machine to be isolated and the power switch to be locked with a padlock until the cleaning had been complete. But this process began to be ignored, as workers had got into the habit of taking the lock keys home with them, which meant that others could

not open or close the locks. Instead, some employees turned the machine's baling chambers at an angle, which activated a sensor to isolate power to most parts of the machine.

Mr Lee began cleaning the machine while the baling chambers were at a 90-degree angle, which he thought had isolated the machine. He then climbed up a ladder and leaned over the top of the machine to clean inside. But his body triggered a sensor, which caused the machine to activate and he became trapped against the side of the chamber by a horizontal ram, and a few seconds later a vertical press ram smashed down on him, and he suffered severe crush injuries and a severed spine. He was pronounced dead at the scene when the emergency services arrived.

An Improvement Notice was issued against the company, which required machine operatives to be trained, and the system of work to be properly planned, monitored and regularly reviewed.

Westwood Yarns Ltd appeared in court on 7 June and pleaded guilty to breaching s2(1) of the HSWA 1974. It was fined £60,000 and ordered to pay £20,625 in costs.

In mitigation, the firm said it has subsequently carried out a fresh risk assessment and now ensures that staff follow the safe system of work by isolating the machine and locking the controls. All machine operatives have received training and they are now properly monitored.

Speaking after the hearing HSE inspector, Kirsty Townend, said: "This was an entirely preventable tragedy. The dangers of baling machines are notorious in the industry but are still all too common. At Westwood Yarns, there was a common misunderstanding that isolation and lock-off at the mains were not required. ??

"No one seemed to appreciate fully how the baling machine worked from a safety perspective, so dangerous assumptions were made, which led directly to Mr Lee's death??

"The company fell well short of its duty to protect employees from a known hazard. Employees were working in a system that allowed poorly-controlled work practices to develop, and ineffective monitoring meant these were not picked up and corrected."

Sentence after Trainee's Forklift Fall

A trainee electrician suffered severe injuries when a metal cage he was using fell 20ft from the fork lift truck supporting it.

Tom Davis, 18, of Looseleigh, Plymouth, suffered a fractured pelvis in the incident which happened in August 2009 while Mr Davis and his colleague were employed by Plymouth based CL Electrical Solutions Ltd.

Plymouth Crown Court heard both trainees were working at the premises of HT Gardner Distribution Ltd in Plympton when instructed to change a number of lightbulbs on the warehouse ceiling.

HT Gardner Distribution Ltd provided a forklift truck for which neither man had received any training, although the firm's own instructions stated only trained drivers should use forklifts. It also provided a cage that was strapped to the forklift that was unsuitable for the task.

While his colleague drove the fork lift around the warehouse, Mr Davis was positioned inside the cage, changing bulbs in any roof lights not working.

During one of these manoeuvres, the forklift toppled over onto its side, narrowly missing crashing into a pillar and slamming the cage into the floor.

Inside the cage, Mr Davis fractured his pelvis in two places, suffered facial injuries that required stitches, a broken front tooth and lacerations to his elbow.

Both firms were prosecuted by HSE. At a hearing at Plymouth Magistrates Court in April, CL Electrical Solutions Ltd pleaded guilty to a breach of Section 2 (1) of the Health and Safety at Work Act 1974 and H T Gardner pleaded guilty to a breach of Section 3 (1) of the Health and Safety at Work Act 1974. The Magistrates' committed the defendants to crown court for sentencing after stating that there had been "a catalogue of breaches on the part of individuals in both Defendant companies" and having taking on board the serious injuries sustained by Tom Davis.

HT Gardner Distribution Ltd was fined a total of £20,000 and ordered to pay costs of £11,300 and CL Electrical was fined a total of £7,000 with £5,000 costs.

HSE Inspector, Helena Allum, said, "Changing light bulbs is such a common job the safety implications can be overlooked, but in high roofed workplaces, falls from height are a very real and serious risk.

"This job was not properly risk assessed and as a result both companies chose the wrong equipment for the job and came up with a loose system of work. The two young trainees, inexperienced in work at height and not trained to use a forklift, were then left to get on with it.

"Any work at height needs to properly planned, the right equipment chosen and workers given sufficient training to do the job correctly and properly supervised."

First Safety Consultant Conviction in Northern Ireland

In the first conviction of its kind in Northern Ireland, a health and safety consultant has been fined for breaching safety legislation.

The Health and Safety Executive for Northern Ireland (HSENI) prosecuted Steven Jones, trading as Hazron Safety Services, and his client Miskelly Brothers after a machinist died at a block making yard in Ballygowan.

Norman McCord, a Miskelly employee, suffered fatal injuries in September 2009 while adjusting a block strapping machine that the block manufacturer had contracted Jones to risk assess.

Miskelly admitted failing to protect employees from risk by not providing safe plant and systems of work or adequate information and training, in breach of Articles 4(2)(a) and (c) of the Health and Safety at Work (Northern Ireland) Order.

The company also pleaded guilty to a charge under Regulation 3(1)(a) of the Management of Health and Safety at Work Regulations (NI) by not carrying out a suitable assessment of the risks to employees.

For his part, Jones admitted a breach of Article 34(1) of the Order, which says that if an offence committed under statutory provisions is due to "the act or default" of someone else, that other person is guilty of an offence. At Downpatrick Crown Court, Judge David Smyth fined Miskelly £50,000 and Jones £4000.

"This case sends out a clear message to all employers who use health and safety consultants to ensure that they are competent and accredited to undertake the work required," said Nancy Henry, an inspector with HSENI's major investigation team.

She added that the adjustments made to the machine were poorly planned, and stressed the importance of making sure risk assessments cover all types of activity on equipment.

Hazardous Materials Workers Denied Hot Water by Employer

Employees at a North Devon decorating supplies firm were not provided with hot water to wash their hands for years, despite being at risk of contracting the skin condition dermatitis.

Mike Wye and Associates Ltd, who produce natural building and decorating products, failed to provide hot water over a period of four years despite workers using hydrated lime for the manufacture of lime putty. Hydrated lime is a well-known irritant to both skin and eyes and can cause dermatitis.

The Health and Safety Executive (HSE) prosecuting told Barnstaple Magistrates running water was provided at the Buckland Filleigh Sawmills site, but this froze in the winter.

After the hearing, HSE Inspector, Simon Jones, said:

"The provision of hot running water is one of the most basic rights for workers, especially when they are dealing with materials that could cause skin disease".

"Although the company provided cold water and gel this did not encourage workers to wash their hands."

Mike Wye and Associates Ltd of The Strand, Barnstaple, pleaded guilty to three contraventions of the Workplace (Health, Safety and Welfare) Regulations 1992 and were fined a total of £3,500 with £588 costs.

Dermatitis is a skin condition caused by contact with something that irritates the skin or causes an allergic reaction. It usually occurs where the irritant touches the skin, but not always. Someone who has dermatitis may experience symptoms of itching and pain. The signs and symptoms of this condition can be so bad that the sufferer is unable to carry on at work.

News

Administration to Avoid H&S Fines?

A Labour MP has launched an Early Day Motion (EDM), urging the Government to tighten up rules so that companies can't avoid prosecutions or have fines reduced for health and safety offences by going into administration and then re-establishing their business using a similar name and the same premises and equipment.

Steve Rotheram, who tabled the motion, says he is deeply concerned that the practice is ongoing.

The Liverpool Walton MP cites the case of Bryn Thomas Crane Hire, which was convicted over health and safety offences in April after the death of Mark Thornton in Liverpool in March 2007.

The EDM notes:

"The firm was fined the significantly reduced amount of £4,500 due to the company being in administration", adding that: "the owner of Bryn Thomas Crane Hire is now trading as Bryn Thomas Cranes Limited using largely the same plant and equipment."

The MP is calling on the Government "to introduce stronger legislation to ensure that companies can no longer avoid justice by going into administration".

No one from Bryn Thomas Crane Hire Limited was available to comment at the time of writing.

EHOs Oppose RIDDOR Changes – CIEH

The Chartered Institute of Environmental Health (CIEH) has warned that plans to increase the threshold for reporting workplace injuries from more than three days to more than seven will make it harder to gather evidence on workplace safety.

In a submission to the HSE consultation on proposals to change the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Riddor), the CIEH says the current system, despite its faults, produces a 'beneficial evidence base' for regulators.

The submission states:

"The CIEH believes that the extension of the reporting period to seven days will not contribute to worker or consumer safety, nor will it have a meaningful effect on reducing any perceived burdens on business."

The CIEH acknowledges that Riddor is not 'sufficiently observed' but argues that its shortcomings will not be addressed by extending the period for reporting injuries.

Instead it calls for 'a fresh and more comprehensive approach' to ensure businesses investigate and 'learn lessons' from accidents.

"It is generally considered that much of the under-reporting is concentrated in the small and medium-sized enterprise sector. Such businesses are in urgent need of clear guidance to improve the level of reporting and to address the fear of attracting unwanted attention from regulators resulting from reporting," it says.

An alternative approach, it suggests, would concentrate on accidents requiring visits to a GP or accident and emergency.

"Reporting could be linked to the Fit Note system; this could trigger investigations and would lead to better reporting. Such reporting would also facilitate intelligence led enforcement," it says.

Under current rules, when an employee is absent from work for more than three days following an incident, employers are required to report the injury to either the HSE or the local council.

Guidance

Lone Workers – an Employees' Guide

The British Security Industry Association (BSIA) has published a guide to help lone workers understand their own responsibilities as well as their employer's obligations, and giving essential advice on using lone worker devices.

The guidance provides those working alone with easy-to-follow advice on how to stay safe at work, including valuable information on risk assessments and the use of monitored lone worker services, including devices used to call for help. Advice is also given on what lone workers can expect from their employers, explaining duty of care and training.

It is noted that a lone working employee should know that their employer has carried out a risk assessment of the role and put in place reasonable and appropriate measures for protection. Measures may include a risk management service as well as a defined Lone Worker Policy (LWP). A lone worker is responsible for conforming to these measures and accepting that they have a duty to their own care also. Employers should discuss the following three fundamental aspects of risks (if they are applicable) appropriate to the situation:

- the probability/exposure to violence and aggression
- the probability/exposure to occupational risks (e.g. slips, trips, falls, electrocution, etc)
- the probability/exposure to personal well being risks (e.g. Health issues; reaction under duress scenarios; ability to cope with pressure).

Before starting work as a lone worker, an employer should discuss with:

- responsibilities
- the risks faced
- any lone worker guidance or policy prepared by the employer
- any issue that may affect working alone.

Counter Terrorism Protective Security Advice

This guide has been produced by the National Counter Terrorism Security Office, in association with the Foreign and Commonwealth Office. It provides protective security advice to those who own, operate, manage or work within various businesses outside of the UK including hotels, restaurants, bars, shopping centres, tourism and transport. It is aimed at those premises where there may be a risk of a terrorist attack either because of the nature of the business, its location, or the number of people who work there. These premises are referred to as 'your business' throughout the guide.

It is accepted that the concept of absolute security is almost impossible to achieve in combating the threat of terrorism, but it is possible, using the advice set out in this guide, to reduce the risk to as low as is reasonably practicable.

It is noted that managing the risk of terrorism is only one part of a manager's responsibility when preparing contingency plans in response to any incident in or near their premises which might prejudice public safety or disrupt normal operations.

Basic principles regarding the risk assessment process involve making logical assumptions about the likelihood of a threat and its impact, should current security measures fail to protect it. Although it is not possible to predict all possible threats to your business, by working through a range of potential scenarios and consequences it becomes possible to make informed judgments about the priorities for your business.

It is advised that you undertake the following:

- carry out adequate risk assessments and put suitable measures in place to manage those identified risks, even where they are not of your making and are outside your direct control. Then be alert to the need to conduct prompt and regular reviews of those assessments and measures in light of new threats and developments
- co-operate and co-ordinate safety arrangements between owners, managers, security staff, tenants and others involved with the business, including the sharing of incident plans and working together in testing, auditing and improving planning and response
- the commercial tensions which naturally arise between landlords and tenants, and between neighbouring organisations that may well be in direct competition with each other, must be left aside entirely when planning protective security
- ensure adequate training, information and equipment are provided to all staff, and especially to those involved directly in safety and security
- put proper procedures and competent staff in place to deal with incidents which might cause imminent and serious danger and/or, require evacuation of the premises.

Business continuity planning is essential in ensuring that your business can cope with an incident or attack and return to 'business as usual' as soon as possible. An attack on a crucial contractor or supplier can also impact on business continuity. You can develop a basic plan, which can be implemented to cover a wide range of possible actions. For example, part of the plan will cover evacuation procedures, but the principles will be generally applicable for fire, flooding, or bomb threat incidents. This is particularly relevant for smaller enterprises that may not have the resources to withstand even a few days financial loss.

The guidance describes a 'risk management cycle', comprising the following points:

- identify the risks
- establish what you want to protect and your vulnerabilities
- identify measures to reduce risk (security improvements/security plans)
- review your security measures and rehearse/ review your security plans.

The guide expands on each point. Other areas covered in the document include security planning, evacuation planning, good housekeeping, access control, and information security.