

Prosecutions

£130k Fines for Worker's Death

Two companies have been fined a total of £130,000 after an Aylesbury worker was killed by a 31-tonne concrete beam on a building site in Thurrock.

The Health and Safety Executive (HSE) prosecuted the two firms - Micor Ltd of Stock Road, West Hanningfield, Chelmsford, and Crane and Transport Services Ltd of Hartley, Kent - after the incident on 6 April 2006.

The court heard that Gary Drinkald, 43, was working for Micor Ltd during the overnight demolition work of the A1306 Stifford Rail Bridge, West Thurrock, Essex. A 31-tonne concrete beam had been removed from the bridge and placed on the back of a low loader lorry. The chains securing the beam were removed from the crane before it was secured to the low loader. The beam then fell - crushing Mr Drinkald under it.

Micor Ltd was the main demolition contractor, and pleaded guilty to breaching Sections 2(1) and 3(1) of the Health and Safety at Work etc. Act 1974. They were fined £100,000 and ordered to pay costs of £20,000 at Basildon Crown Court on Friday 11 March 2011.

Crane and Transport Services Ltd, was subcontracted to provide staff to supervise the lifting procedure and pleaded guilty to breaching Regulation 8(1) of the Lifting Operations and Lifting Equipment Regulations 1998. They were fined £30,000 and ordered to pay costs of £10,000.

Following the hearing, HSE Inspector Nicola Surrey said:

"A family, including four children have had their lives devastated by this tragic incident. With adequate planning and supervision of how the concrete beam should have been secured on the low loader lorry, this outcome could have been avoided. This case is a warning to other employers that there are serious consequences for not protecting their workforce."

Both Micor Ltd and Crane and Transport Services Ltd pleaded guilty to the above charges in Southend Crown Court on 27 May 2010.



Worker Spotted Standing on Roof

A roofing firm has been sentenced after a worker was spotted balancing dangerously on a house roof in Lymm.

The employee at M & D Roof Coatings Ltd was seen power washing the sloping roof while standing at the edge, without any safety precautions in place to stop him falling to the ground below.

The company was prosecuted by the Health and Safety Executive (HSE) following routine inspections in the town on 5 May 2010.

Halton Magistrates' Court in Runcorn heard the employee was photographed working nearly five metres above the ground on the roof of a semi-detached house on Grasmere Road in Lymm, Cheshire.

Inspectors immediately issued a prohibition notice, ordering the work to stop, until scaffolding, edge protection or other safety equipment had been provided.

M&D Roof Coatings Ltd was found guilty of breaching Regulation 4(1) of the Work at Height Regulations 2005 by failing to make sure the work was planned and carried out safely.

The company, of Marsland Road in Sale, was fined £10,000 and ordered to pay prosecution costs of £7,269 on 14 March 2011.

Speaking after the hearing, HSE Inspector John Ellis said:

"It's incredible that workers were expected to power wash a roof while standing on it, without any scaffolding or edge protection to stop them falling.

"Working on a roof without safety precautions is dangerous enough, but the risk of falling was increased by the fact that moss and other detritus were being washed off the roof. One slip and the worker would have fallen to the ground, resulting in him being seriously injured or even killed.

"Falls from height are among the biggest causes of workplace deaths in the UK. Roofing firms should therefore ensure that they have safe systems of work in place to protect their employees and others."

Scaffolding Wasn't Properly Secured



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Two North East companies have been fined after a member of the public was seriously injured when scaffolding collapsed during high winds.

A 68-year-old woman was out shopping with relatives when the scaffolding in Shields Road, Byker, Newcastle collapsed on 14 March 2009.

She suffered double fractures to her right hip joint and right femur, puncture wounds to her right ankle and severe bruising and was in hospital for 12 days following the incident. Almost two years on she is still unable to carry shopping bags and is limited in what housework she can do.

An investigation by the Health and Safety Executive (HSE) revealed that Skyline Scaffolding Ltd had not erected the scaffolding properly by failing to ensure it was adequately secured to the building. The scaffold had been reduced in height to a single working platform with the wooden hoardings and sheeting still attached. In reducing the scaffold, the scaffolding company removed the arrangement that retained the scaffold to the building.

HSE also found that Ashbrook Construction Services Ltd had failed to ensure that the scaffolding was properly inspected both before work began and at regular intervals as it progressed.

Skyline Scaffolding, of Drum Industrial Estate, Birtley was found guilty, in absence, to one breach of Section 3(1) of the Health and Safety at Work etc Act 1974 between 14 January and 14 March 2009 and a second offence of breaching Regulation 8(b) of the Work at Height Regulations 2005 between 11 and 14 March 2009 and was fined £10,000 and ordered to pay costs of £4,182.30 at Newcastle Magistrates' Court.

Ashbrook Construction Services Ltd, of Leeholme Industrial Estate, Cowpen Lane, Billingham pleaded guilty to one breach of Section 3(1) of the Health and Safety at Work etc Act 1974 between 14 January and 14 March 2009 and was fined £3,000 and ordered to pay costs of £2091.15.

Compensation Paid after Worker Stepped on Colleague's Back for a Prank

An employer is to pay out a 'substantial' sum in compensation after an employee suffered a spinal injury in a workplace prank. The exact figure the employer will pay out has not been disclosed.

Factory worker William Jones, 46, suffered a serious spinal injury when a 22-stone colleague jumped on his back as a joke as he was bending down getting a tool out of a cabinet. Mr Jones said he immediately felt a 'popping' in his back and was in severe pain.

After the accident at TRW Systems, Mr Jones suffered from a slipped disc and trapped nerve and had specialist spinal fusion surgery but he continues to have restricted mobility.

Mr Jones needed to take more than four years off work before he was eventually made redundant. He has since been told by his GP that he is unlikely to work again, although he has said he is keen to work and is considering retraining in a different area.

Mr Jones' lawyers successfully argued that TRW Systems was responsible for its employees' actions in the workplace and the firm admitted liability and settled the claim out of court.

Diane Davison from Thompsons Solicitors said:

"Mr Jones' colleague was 'just larking around' but his actions have had a profound affect on Mr Jones' life. Our case proved that TRW Systems had failed to make sure staff behaved appropriately in what is ultimately a dangerous factory environment and where pranks can lead to potentially lethal accidents."

TRW spokesperson, Lynette Jackson, told Workplace Law:

"We regret that Mr Jones sustained an injury at work and take such incidents seriously. We have an excellent health and safety record and remain committed to protecting our employees while they're working for us. This incident did lead to disciplinary action."

Cotswold Geotechnical Holdings to seek Corporate Manslaughter Appeal

Cotswold Geotechnical Holdings has applied for permission to appeal against its conviction under the Corporate Manslaughter and Corporate Homicide Act and the £385,000 fine the judge imposed.

The application to appeal was made last week (14 March) with a decision on whether it is granted permission is expected within the next few weeks.

During the case, the prosecution argued that the routine failure by the company to prohibit entry into pits deeper than 1.2m and a failure of the Director (Eaton) to enforce such a ban amounted to a gross breach of the duty of care. The prosecution said it was a gross breach because Eaton and the firm ignored its own health and safety policy, ignored relevant industry-specific guidance and British standards, and ignored previous HSE advice.

The defence admitted: a duty of care was owed to the employee who died; the system of work was deficient in that there was a failure to provide specific training and conduct generic risk assessments and method statements for trial-pit work; and failing to ensure that its health and safety policy specifically related to trial-pit work.

However, none of the admitted failures related to the specific duty to employee, as opposed to employees generally.

The defence argued that the industry guidance and British standards were not specific, and that the latter were not as prescriptive as the prosecution made out. It also said others in the industry adopted similar practices, and that the employees entry into the pit that collapsed was contrary to company policies and was unforeseeable and unnecessary.

Judith Hackitt Comments on Cost Cutting

Speaking at the IOSH 11 Conference last week, Judith Hackitt, HSE's chair outlined the HSE's plans for cost cutting and recovery.

She stated that the goal for the HSE in the coming year – in the wake of Lord Young's review of and recommendations on health and safety, and in view of the government spending review – will be to continue to look for opportunities to improve its efficiency and make cost savings – but not at the expense of inspection and regulation of high-hazard sectors.

Commenting on the 35% cut in the Executive's budget as "no more harsh than that applied to other bodies within the DWP" Ms Hackitt stated that the HSE is already making significant cost savings and efficiencies towards this target.

She explained: "In a significant proportion of the work we do we already fully recover our costs from those we regulate. Also, moves like the closure of our corporate activities in London and consolidation in Merseyside, and the fact that 200 staff recently accepted our voluntary exit scheme – we will continue to investigate further rationalisation of our estate, and cutting back on back-office services in order to save costs."

Commenting on cost recovery she said, "It is true that we are working in proposals to charge those who are not managing the risks they create – that is, charging them for the work the HSE has to do to make sure they are compliant. We think this is fair and equitable, and that the majority of businesses will see it as taking away the competitive advantage their non-compliant rivals have had for a long time."

Stress Tests for Europe's Atomic Power Plants



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Stress tests on nuclear reactors, Europe's future energy mix and the lessons to be learnt from the ongoing nuclear accidents in Japan were the hot issues last week at a special appearance by EU Commissioner Günther Oettinger before Parliament's Energy Committee.

"We are all affected by the situation in Japan", emphasised the Commissioner, who was concerned about how Japan would control the situation. Although the incidents at the Japanese nuclear plants would have far-reaching implications in Europe, he reassured MEPs that all stakeholders "are prepared to conduct extraordinary stress tests" including risk assessments of possible damage by earthquakes and high water levels.

The Commission will prepare the EU-wide assessment criteria by June, while the tests themselves should be concluded by the end of the year, he said. Thorough stress tests will also take place in nuclear plants of neighbouring countries, including Turkey, Russia and Switzerland.

MEPs' responses to Mr Oettinger's opening statement were many and varied. Alejo Vidal Quadras (EPP, ES), Giles Chichester (ECR, UK) and Edit Herzog (S&D, HU) contended that Europe should not panic and must get all the details about the accident correct before making any changes in long-term decisions about its energy future.

Rebecca Harms (Greens/EFA, DE), Matthias Grootte (S&D, DE) and Fiona Hall (ALDE, UK) were concerned that nuclear meltdown was almost impossible to stop once it has started. They insisted that stress tests on the robustness of cooling systems and the storage of spent fuel, which is often kept in the plants, should therefore be very thorough.

Angelika Niebler (EPP, DE) and Jorgo Chatizmarkakis (ALDE, DE) were in favour of the increased "Europeanisation" of future safety standards, which would entail shared responsibility, and also called for research into alternative energy sources to be speeded up.

Vladimír Remek (GUE/NGL, CZ) wondered if the EU would hold consultations with Russia on the accident, while Lena Ek (ALDE, SE) asked about the consequences for the energy mix in the EU's Member States.

The Commissioner replied that he would report to MEPs on the criteria for the stress tests when they were ready: the first draft should be available after Easter. The tests would take account of the age and location of nuclear power plants. He also pointed emphasised that any decision on the early closure of nuclear power plants or on a moratorium on the construction of future plants lay with national governments and public opinion in the Member States. Lastly, he called for patience since not all the facts on incidents in Japan were yet known and it would be wrong to jump to conclusions about the safety of the plants in Europe.

Welcome for Cancer Compensation Precedent



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Unions have welcomed a Supreme Court ruling determining that workers may claim compensation after 'low level' exposures to a cancer-causing substance at work.

Earlier this month, the Supreme Court upheld earlier rulings establishing there was no requirement for a claimant to show a doubling of risk in order to claim asbestos caused their cancer. Commenting on the decision, Christine Blower, general secretary of the teaching union NUT, said: "This case is of great significance since it is the first time that a former pupil has been awarded compensation for asbestos exposure which took place whilst at school." She added: "It has been known for many years that children are more vulnerable than adults to the effects of asbestos exposure, even at low levels. In the last 10 years, 140 teachers have died of mesothelioma. If teachers are dying from their exposure, inevitably pupils will die too in later life. Because of the long latency period, however, there are no records of adults who have died because of childhood exposure."

She added: "The NUT has for many years been calling for an assessment of the asbestos risks to children at school. We hope that this case will lead the government to commission such an assessment. For the sake of the children in our schools we hope that the assessment is carried out without further delay."

Alan Ritchie, general secretary of the construction union UCATT, welcomed the judgment, but added: "Sadly, this is just the latest in a long line of attempts by the insurance industry to deny compensation to people dying an agonising death."

London 2012 Games – Big Build – Lessons for All

Information issued by the HSE aims to show how the safety authority is working with others to make the London 2012 Games the safest on record. In January the Olympic Delivery Authority announced that more than 12,000 people were working at the Olympic Park and Athletes' Village during the construction phase now known as 'Big Build'.

While during this phase of the project is the steady move towards deadlines and targets, the challenge of identifying and managing new risks that emerge as the work changes also emerges.

The HSE has for many years championed risk profiling as a sure means of targeting resources towards the greatest hazards: a risk assessment on a piece of paper will not save any lives. Risk management is a living feature of the workplace and as important to a business as its accounting systems. Risk profiling helps to paint a clear picture of which workers are most at risk during specific jobs or phases. It ensures that all are aware of any dangers and how to avoid harm from them.

The HSE is doing exactly that for its approach to regulating health, safety and welfare at London 2012. This project has moved through its range of dynamic changes from enabling, superstructure, fit out and readiness for use as a world-class sporting venue. The HSE have reviewed the work, considered those new risks that merit their attention and have once again revised their intervention strategy to take account of Big Build. The HSE's construction inspectors have focused on getting assurances that, regardless of the changes on site, the very high safety standards achieved to date are maintained.

In particular, the HSE will be looking at how the many new and different contractors on site will be managed, how their competence will be assessed and how the different phases of fit-out will be co-ordinated. Most of the well-known hazards remain, such as working at height and managing people and traffic movements. They have however changed in nature, with multiple contractors visiting to take on short-term work. It is crucial that this more transient workforce is managed and engaged in the same way as those who have worked since projects began.

Stress is Worsening Unions Warn

Stress levels in the workplace have deteriorated in the last year, according to a new survey by the Trade Union Coordinating Group (TUCG).

The TUCG, which brings together ten national unions, surveyed workers to find out which out of a number of stress indicators were being felt by workers, whether it was felt that these factors had aggravated over the last year, and whether these factors were causing stress.

The poll, which was carried out by Electoral Reform Research, surveyed more than 750 working adults and found that more than one in four workers are more stressed now than a year ago.

About 20% of workers report having to work harder as a result of job cuts in their workplace, with one in seven in fear of losing their jobs.

Mark Serwotka, general secretary of TUCG member, the Public and Commercial Services (PCS) union, said: "This survey reveals the rising levels of stress and insecurity in the workplace. With government plans for further cuts to jobs, pensions and pay on the horizon, this situation is only going to deteriorate in the next 12 months."

Bob Crow, general secretary of co-union member, the RMT, suggested that a "culture of fear is sweeping through workplaces" with employees threatened with dismissal if they refuse to work longer hours for less money.

He added: "Bullying and harassment is rife and the first thing to take the hit is safe working practices, as the ConDem cuts agenda threatens to turn the tide on gains on worker's rights and workplace safety that have been secured since the Second World War."

Case Studies from London 2012 – Preventing Falls

The HSE is publishing a series of short case studies to promote some of the new and practical solutions used to manage health, safety and welfare during construction of the London 2012 projects.

Preventing falls during off-loading of vehicles

Background

A multi storey car park was constructed on the Olympic Park. The structure involved the delivery, unloading and placing of hundreds of items of steelwork and precast concrete floor slabs by tower crane.

Hazard

Vehicle movements around the structure and falls from vehicles were identified as significant risks since hundreds of vehicle movements would be taking place with materials and plant needing to be off-loaded.

The team designing and constructing the car park considered the arrangements for managing vehicle movements and preventing falls from lorries during off-loading.

Solution

A traffic management plan was prepared and implemented with well-defined and signed routes to keep vehicles and pedestrians apart.

A mobile platform was installed and fitted with moveable overhead beams to which fall arrest systems were fitted. This system allowed those slinging loads to work safely at height.

The National Association for Safety and Health in Care Services (NASHiCS) and the Chief Fire Officers' Association (CFOA) have developed additional guidance for operators of residential care premises.

The additional guidance was produced to accompany the Communities and Local Government (CLG) guide, Fire Safety Risk Assessment - Residential Care Premises.

The CLG Guide was produced in order to provide guidance regarding compliance with the Regulatory Reform (Fire Safety) Order 2005 (FSO).

The principle enshrined in the FSO is that residential care premises operators have a duty to ensure, as far as is reasonably practicable, the safety of their employees, residents and other visitors. They are to use a Fire Risk Assessment (FRA) approach to identify and control the fire risks in their premises.

As a result of holding discussions with members, NASHiCS set up the Fire Safety Working Group to examine a number of the issues raised and to establish practical methods of compliance.

The NASHiCS Fire Safety Working Group identified some specific issues in the CLG Guide that seem to require some additional guidance in order to ensure full understanding by all concerned.

This document is designed to set out this additional guidance and deal with the following issues:

- evacuation of a protected zone in 2.5 minutes
- rooms of residents unable to evacuate – upgrading to 60 minutes fire resistance
- staff remaining with residents who are unable to evacuate
- the use of external fire escapes by residents
- the travel distance of evacuation routes
- the use of by-pass routes.

Underlying principles set out in the guidance are that:

- the safety of premises occupants is paramount
- staff training as regards awareness and reduction of the risk of fire and in evacuation strategies and techniques is vital
- the risk of fire cannot be completely eliminated so measures must be in place to reduce the risk to as low as is reasonably practicable as required by the law
- there should be sufficient levels of staff to effect the fire safety strategy for that premises
- the fire safety strategy should always take account of the ability of the building to withstand the spread of fire and smoke travel.

Incidence of Electricity-related Accidents in Great Britain - An Update

This HSE report analyses RIDDOR based electricity-related accidents covering all industries and is intended to be an update (and standalone report) to the previous HSE research report 'Identifying the incidence of electricity-related accidents in Great Britain'.

Using certain selection criteria, the full RIDDOR database from 1996/97 to 2008/09p was searched to identify three categories of electricity accident:

- 'direct contact' with electricity
- 'electrical based' accidents
- 'all related' accidents.

Analysis was carried out using RIDDOR fields such as 'HSE year', 'work process' and 'agent'.

A number of findings were revealed, including electrical fitters (including electricians) reporting the greatest number of fatalities and non-fatal injuries, with many of the accidents related to contact with electricity (or electrical discharge). However, a number of other accidents were not related to direct contact with electricity, such as handling strains/sprains and high falls.

Other findings include:

- an average of 13 fatalities per year from 1996/97 to 2008/09p have been caused by direct contact with electricity. Provisional data suggests that in 2008/09p there were 6 fatalities, which is the lowest number over the 13 years
- in all electrical based work activity from 1996/97 to 2008/09p, there has been an average of 22 fatalities per year (ie. accidents appearing under an electrical RIDDOR category)
- from 1996/97 to 2008/09p, the Construction HSE sector has the highest number of fatal accidents (127). The Engineering and Utilities HSE sector reports the highest number of non-fatal accidents (40,235)
- from 1996/97 to 2000/01, unintentional contact with overhead lines and contact with electricity/electrical discharge involved the highest number of fatalities (20 and 19 respectively). Moving heavy weights or strains/sprains contribute to the highest numbers of non-fatal injury.

It is proposed that the results of this report constitute an updated evidence base indicating possible priority areas for intervention by the HSE.

The Health and Safety Executive (HSE) has been working in partnership with the construction industry since the 1990s to bring about improvements in risk management by developing solutions together. One aspect of this is an initiative called the supply chain model, which attempts to take a cohesive approach by drawing together stakeholders from across the construction industry, such as suppliers, contractors, clients (from both the public and private sectors) and designers/architects. In 2009 The HSE commissioned the Institute for Employment Studies (IES) to undertake a qualitative evaluation of the supply chain initiative and its component work strands. This report presents the evaluation's findings.

The seven work strands included within the supply chain initiative were:

- reducing manual handling of heavy kerbs: this work strand aimed to increase the use of lifting equipment on road building, road repair and hard landscaping sites, and substitute concrete kerbs with kerbs made from lighter materials, produced in smaller units
- hand-arm vibration (HAV): the broad aims of this work strand in the period the evaluation covered centred on establishing an HAV database and HAV management system for industry-wide use
- reducing manual handling of heavy paving: this (ongoing) work aims to reduce the incidence of manual handling of paving materials by moving from a situation where the majority of (heavy) paving materials are laid by hand to one where mechanical laying is the industry norm
- reducing handling of heavy blocks (masonry units): this (ongoing) work aims to identify practicable interventions and lead on their implementation to reduce or eliminate the risk of musculoskeletal disorder (MSD) caused by the repetitive use of heavy masonry units
- reducing handling of panel products (eg plasterboard): this (ongoing) work aims to encourage the use of mechanical lifting aids in the handling of panel products
- reducing respirable crystalline silica (RCS) exposure during kerb, paving and block cutting: this (now complete) work aimed to increase good practice within kerb, paving and block cutting by establishing an agreed control hierarchy and providing clear guidelines specifying when water suppression and respiratory protective equipment must be used
- use of lifting aids for heavy drainage products: this (incomplete) work strand aimed to promote the use of lifting aids in construction, for heavy drainage products (ie gully pots, manhole covers and frames) or heavy lintels.

Amongst its conclusions, the report finds that for supply chain work to be successful, it needs to be adequately resourced and well managed. Strand co-ordinators need to be given sufficient allocation of work time, and support by their manager and other HSE technical and administrative staff (as required) to ensure their commitment to the project. In addition, some training in how best to engage stakeholders and in project management skills should be considered for HSE staff taking on a co-ordinating role.

In order to monitor and demonstrate progress, supply chain work (like most interventions) needs to have clear objectives that are measurable and achievable. In addition, strand coordinators need to be able (and encouraged) to take a flexible and pragmatic approach to goal setting.

Better general recording, preferably to some form of relatively standardised format, would allow a better assessment of the progress and achievements of individual strands and the supply chain work as a whole.

The supply chain approach, in principle, could be applied to a wide range of risks and work if implemented in different industries. However, there are a number of factors that appear to facilitate the most progress. A well-networked industry, for example, where stakeholders are able to exert influence directly on each other and which allows for physical meetings to take place, would seem to be an important component of the initiative's success within construction. Also important is the ability for intervention to take place in the design or planning stage of work, so that risks can be factored out as far as possible before workers can be exposed to harm.