



Prosecutions

Buncefield Convictions

A jury at St Albans' Crown Court last week found TAV Engineering Ltd guilty of failing to protect workers and members of the public following an investigation into the explosion and fire at Buncefield Oil Storage Depot on 11 December 2005.

Motherwell Control Systems 2003 Ltd was also found guilty earlier last week of the same charge.

And Hertfordshire Oil Storage Limited was found guilty of failing to prevent major accidents and limit their effects. The company also also pleaded guilty to causing pollution to enter controlled waters underlying the vicinity around Buncefield.

Sentencing is planned to take place on 16 July 2010 at St Albans Crown Court.

The Health and Safety Executive (HSE) and Environment Agency are the 'Competent Authority' responsible for regulating non-nuclear major hazardous industrial sites in the UK under the Control of Major Accident Hazard Regulations 1999 (COMAH).

As the competent authority, the Health and Safety Executive and Environment Agency have a responsibility to investigate major incidents and ensure that lessons are learned.

The Health & Safety Executive and the Environment Agency said:

"This was the biggest and most complex criminal inquiry we have worked on together - the product of many hundreds of hours of painstaking forensic investigation.

"When companies put workers and members of the public at risk and cause environmental damage we will prosecute.

"When the largest fire in peacetime Europe tore through the Buncefield site on that Sunday morning in December 2005, these companies had failed to protect workers, members of the public and the environment.

"The scale of the explosion and fire at Buncefield was immense and it was miraculous that nobody died. Unless the high hazard industries truly learn the lessons, then we may not be that fortunate in future."

Bakery Directors fined after Ignoring Warnings

The directors of a Bedfordshire bakery have been fined after a series of health and safety breaches exposed staff to serious danger - including electrocution and exposure to flour dust.

Genaro Saiano and Dejan Durkin, the directors of DG Bakery Ltd, based in Harrowden Road, Bedford, appeared at Bedford and Mid-Bedfordshire Magistrates' Court facing health and safety charges.

The court heard how inspectors from the Health and Safety Executive (HSE) discovered dangerously exposed live wires on the bakery's bread conveyor belt during an unannounced inspection on 13 January 2009. The inspectors issued immediate prohibition notices ordering the directors to shut down the conveyor belt until the machinery had been made safe.

HSE inspectors also issued four improvement notices, ordering various health and safety issues to be resolved by a set deadline. The bakery directors were legally required to prevent access to dangerous parts of the bread conveyor belt, prevent access to dangerous parts of the bread dough mixer, arrange for electrical testing and



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carry out a risk assessment for exposure to flour dust. They failed to comply with the improvement notice requiring a risk assessment be carried out.

The two directors admitted breaching Regulation 4(2) of the Electricity at Work Regulations 1989 in relation to the exposed wires and Section 33(1)(g) of the Health and Safety at Work etc Act 1974 in relation to the risk assessment.

Mr Saiano, of Scotchbrook Road, Marston Moretaine, Bedfordshire, was fined £3,000 and ordered to pay £500 costs. Mr Durkin, of Blackburn Close, Shortstown, Bedfordshire, was fined £2,500 and ordered to pay £500 costs.

DG Bakery Ltd is a small bakery specialising in the production of Italian bread.

HSE Inspector Emma Rowlands said: "It is simply unacceptable to operate machinery with live wires exposed - someone could have been killed or suffered a serious injury. The danger of electrocution is well known and advice had already been given to the bakery in 2000 regarding electrical safety.

"The directors also failed to comply with an improvement notice, requiring them to carry out an important risk assessment. The risks associated with exposure to flour dust are widely known and advice had been given to the bakery in 2007. The associated health hazards include irritation to the eyes and nose, occupational dermatitis and occupational asthma.

"All company directors must remember they have a duty to ensure their staff arrive every day to a safe working environment. This case has shown the importance of maintaining equipment in a safe condition and HSE is planning a series of inspections in the county for later in 2010 - to raise standards and protect the people who work in bakeries."

News

Further Directors Duties Needed

According to a survey by company lawyers, too many employers are still not taking health and safety seriously enough, despite tougher laws and harsher penalties.

Some 80 in-house lawyers for a range of firms in such sectors as construction, chemicals and utilities were asked by Manchester-based law firm Pannone LLP whether further duties need to be placed on directors in order to get them to really focus on health and safety.

Two thirds of the lawyers, representing some of the UK's biggest companies, said directors' duties in law are necessary to ensure they take health and safety seriously, and 65% believe they are needed to protect workers.

Despite widespread hype over the introduction of the Corporate Manslaughter and Corporate Homicide Act in 2008, it prompted just 38% of organisations to take health and safety more seriously, said their lawyers.

Interestingly, they also revealed that rather than the prospect of an unlimited fine for being convicted under the new Act, they are more fearful of the publicity resulting from the case. Publicity orders will be an option in the case of corporate manslaughter convictions, and may require offending organisations to publicise the fact of conviction, particulars of the offence and the level of fine in a specified publication or website, at a particular size and location.

Just over half the lawyers questioned (53%) were concerned that this media coverage could cause immense damage to their employer's reputation.

Despite the potentially catastrophic effect this publicity and a multi-million-pound fine could have on their employers, most of the lawyers felt the new sanctions are fair enough – 70% deemed them 'not too harsh'.



John Gollaglee, regulatory partner and health and safety specialist at Pannone, said: "The last decade has seen a growing trend for prosecuting bodies to target individuals and, as a result, we are seeing a large increase in the number of investigations focusing on individual company directors and managers.

"More recently, the net is widening to include advisors such as health and safety professionals. In fact, we have one case where a senior health and safety officer is facing criminal charges simply because an accident happened 'on his watch'.

"However, despite the rise in criminal investigations and charges, it seems that the majority of in-house lawyers believe a legal duty on directors is still necessary to ensure that they take health and safety seriously."

"Alarm Bells for Employers"

One in four people in the UK often works all day without taking a break, a survey suggests. More than half of the 3,000 people polled by the Chartered Society of Physiotherapists said they went to work when feeling unwell or stressed.

Staff shortages were cited as a cause of stress and why breaks were skipped.

While work can contribute to people's mental and physical well-being, overworking can lead to health problems, the CSP warned.

Although a quarter of those polled took no lunch break at all, a third worked through most of theirs. Half of those who did so said it was because they had too much work to do, and a third because there were not enough staff to do the work required.

Working in the same position for long periods at a time meant many complained of physical pain.

The CSP warned that poor working practices increased the risk of chronic musculoskeletal disorders, like back pain - one of the most common reasons for long-term sickness leave in the UK.

Stress was also an issue, with more than 40% feeling stressed at least once a week. For many of these people, staff shortages and a heavy workload were at the root of their anxiety.

Last year, the health watchdog NICE urged employers to do more to tackle stress and anxiety in the workplace.

Sickness absence and 'sickness presence', when staff come to work feeling unwell, is estimated to cost employers and society about £35bn each year in reduced productivity, sick pay and benefits.

At least some of this could be recouped through healthier working practices and helping employees access treatment for musculoskeletal disorders, the CSP said.

"Work is good for us and can contribute to our physical and mental well-being - but not when overworking means people don't have the time or energy to look after their own health or when staff are at work but not fit for work," said Ann Green, chairman of the CSP.

Ben Willmott, of the Chartered Institute of Personnel and Development, said: "These findings should ring alarm bells for employers.

"A certain level of pressure at work is of course desirable. However when the pressure people face exceeds their ability to cope - in other words stress - it is likely to lead to time off work and is linked to conditions such as depression, anxiety and heart disease."



Health and Safety Review 'Ignores injury risks faced by Workers'

The TUC has expressed concern at the remit of the Government's review of health and safety legislation, which was announced last week.

The review will 'investigate concerns over the application and perception of health and safety legislation, together with the rise of the compensation culture over the last decade'.

TUC General Secretary Brendan Barber said: "This will not be an open and frank review aimed at achieving better regulation. Instead it is an attempt to undermine the already limited protection that workers have by focusing on the needs of business.

"We are also surprised the Government is addressing the 'compensation culture' again as successive reports show there is no such thing and claims have been falling over the past ten years.

"Businesses are responsible for a working culture that injures a quarter of a million workers every year and makes a further half a million employees ill. The review should by investigating this instead.

"Rather than focusing solely on the 'needs of business', the Government should protect workers by increasing inspections and enforcement action against employers who put their staff at risk by ignoring existing laws, as well as introducing a legal duty on directors to protect their workers."

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Guidance

Health and Work

Published by the Stationery Office, this guidance leaflet is aimed at getting workers back to health and work.

It notes the importance of work, and highlights that research shows that work is good for physical and mental health. There is strong evidence to support that returning to work as soon as possible helps recovery. It is the best way to avoid long-term sickness.

Common health problems

Most sickness absence is due to:

- mental health conditions such as 'stress' or depression
- muscle and joint conditions such as back pain or whiplash
- heart and chest conditions such as blood pressure or asthma.

Obstacles to recovery

The leaflet suggests that various things can get in the way of recovery, and getting back to work:

- personal issues, such as how people think and feel. Personal obstacles include unhelpful attitudes and beliefs about health and work; uncertainty; anxiety and depression; loss of routine and work habits
- work issues, which can block return to work. These can include loss of contact with work; negative attitudes by people at work; lack of modified duties; legal claims.

It is noted that the longer a person is off, the harder it is to get back. Most of the warning signs are then about what that person feels and does, rather than the medical condition:

- believing there is something seriously wrong
- unable to accept reassurance and help
- avoiding activity in case it makes things worse
- getting withdrawn and depressed
- fears and uncertainty about going back to work.

Return to work

Getting back to work depends on the employee and their employer working together - communication is essential. The key thing is to stay in touch with the people at work.

Return-to-work plan

Getting back to work needs planning. The leaflet advises on the following:

- take control
- set realistic goals
- list what can be done
- talking with doctors
- increasing activity
- talking with therapists



- changing the mind-set
- talking with employers.

Health Guidance Booklets

The Stationery Office has published a range of books aimed at helping to prevent, cope with and recover from pain and injury. The publications are a useful resource for employers, doctors and therapists to hand out to patients. They contain the latest research from fields such as orthopaedics, physiotherapy, ergonomics, biomechanics and health psychology. Brief summaries of some of the key titles are given below:

Tackling Musculoskeletal Problems: A Guide for Clinic and Workplace

This guide is for those involved in tackling musculoskeletal problems in healthcare and the workplace. It looks at the problems and solutions, sets out the steps that need to be taken and who needs to take them, and when.

In terms of the workplace, the guide is for line managers/supervisors, senior management, human resources, health & safety advisors.

The key to tackling musculoskeletal problems is not so much what has happened, but how to facilitate recovery and return to work. Throughout this guide colour-coded flags help identify key features of a person, their pain problem and how they interact with the world around them. In identifying the key obstacles to recovery and return to work, this guide assists in developing a plan that addresses specific problems and provides a timeline for recovery.

Key features:

- outlines the nature of musculoskeletal problems
- defines the concept of 'Flags'
- value of Flags in aiding recovery
- how to identify Flags
- timeline for recovery
- developing a plan of action
- stepped care approach
- workplace guide.

Is Work Good for Your Health and Well-being?

Increasing employment and supporting people into work are key elements of the Government's public health and welfare reform agendas. This independent review, 'Is Work Good for Your Health and Well-being?', commissioned by the Department for Work and Pensions, examines scientific evidence on the health benefits of work, focusing on adults of working age and the common health problems that account for two-thirds of sickness absence and long-term incapacity.

The study finds that there is a strong evidence base showing that work is generally good for physical and mental health and well-being, taking into account the nature and quality of work and its social context, and that worklessness is associated with poorer physical and mental health. Work can be therapeutic and can reverse the adverse health effects of unemployment, in relation to healthy people of working age, for many disabled people, for most people with common health problems, and for social security beneficiaries.

Vocational Rehabilitation: What Works, for Whom, and When?

This review aimed to provide an evidence base for policy development on vocational rehabilitation - defined as whatever helps someone with a health problem to stay at, return to and remain at work. The focus was on adults of working age, the common health problems that account for two-thirds of long-term sickness (mild/moderate



musculoskeletal, mental health and cardio-respiratory conditions) and work outcomes (staying at, returning to and remaining in work). Data from some 450 scientific reviews and reports were included in evidence tables.

The review demonstrates that there is a strong scientific evidence base for many aspects of vocational rehabilitation, a good business case for it and more evidence on cost-benefits than for many health and social policy areas. Generic and condition-specific findings are reported, and practical suggestions offered for the differing types of people affected by health problems. Vocational rehabilitation should be a fundamental element of government strategy to improve the health of working age people.

Other key titles in the range include:

- The Back Book: this booklet offers evidence-based advice on coping with back pain and leading a normal life
- The Neck Book: this publication contains accurate and effective advice and information on early management of neck pain, based on the latest research in the fields of orthopaedics, physiotherapy and ergonomics
- The Whiplash Book: this booklet is designed to help people cope with whiplash injury so that they can recover quickly and avoid long term pain and disability.

Introduction to CHIP 4 – Revision

HSE guidance document – INDG350 – has been revised. It sets out information on the CHIP Regulations, that is Chemicals (Hazard Information and Packaging for Supply) Regulations.

Chemicals in this context mean single substances (such as acetone) or mixtures (preparations) such as a paint brush cleaner. The chemical could vary from a commodity chemical sold in bulk to a household-cleaning product sold in small packages.

This guide introduces the legal obligations to provide safety, health and environmental information for suppliers' customers.

CHIP helps protect people and the environment from the ill effects of chemicals by requiring suppliers to:

- identify the hazards (dangers) of the chemicals they supply
- give information about the chemicals' hazards to their customers
- package the chemicals safely.

CHIP applies to the supply of chemicals. There are different laws for controlling them in the workplace and on the transport of dangerous chemicals. Supply means to sell, offer for sale, provide commercial samples, import, or transfer chemicals from workplace to workplace.

CHIP implements the European Dangerous Substances Directive (No. 67/548/EEC) and Dangerous Preparations Directive (No. 1999/45/EC).

The most recent version of CHIP is known as CHIP 4. CHIP 4 is the name for the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009. CHIP 4 became law on 6 April 2009.

This guidance will help suppliers decide what they need to do about CHIP and whether they should get help. It introduces the CHIP Regulations and identifies the various supporting documents or other sources of information which will help with legal compliance.

There have been quite a few changes to European law on chemicals recently. The guide also provides a short introduction to the new European Regulation on the Classification, Labelling and Packaging of Substances and Mixtures – known as the CLP Regulation – and the REACH Regulation. Both these European Regulations are



direct-acting on the UK. This means there will not be any national laws to implement them and you must comply with them directly.

Chemical Danger - Read the Label

This guidance (INDG352) from the HSE has been revised. It is for people who use chemicals at work. It explains how to find out more about the chemicals used just by reading their labels.

Labels can help identify the more hazardous chemicals, set out what the dangers are, and how to avoid them.

Current hazard symbols that appear on chemicals help to inform the user whether the chemicals might be explosive, oxidising, highly or extremely flammable, (very) toxic, harmful/irritant, corrosive, or dangerous for the environment.

This guide covers the following:

- using the information
- further safety instructions
- where to get more information
- safety representatives.

Also set out are some changes to look out for, in relation to terms such as 'GHS', 'CLP' or the 'CLP Regulation'. These are all terms referring to changes to the law on how chemicals are classified and labelled.

These changes will gradually come in over the next few years so changes to hazard labels will happen soon.

A new European Regulation on the Classification, Labelling and Packaging of Substances and Mixtures – known as the CLP Regulation – is already in force in the UK and all other countries in the European Union. Over a transitional period lasting until 2015, the CLP Regulation will replace the existing system of classification, labelling and packaging.

The CLP Regulation will mean:

- a few changes to how chemicals are classified
- newly designed hazard symbols, called 'pictograms'
- new wording to help explain the hazards that are in the chemical and how to use it safely ('hazard statements' and 'precautionary statements').

Reports

Stress Management Standards

This paper was produced to assess the impact of the HSE's Management Standards on work related stress outcomes. The Management Standards (MS) approach has been developed to help organisations manage potential sources of work-related stress. Despite general support for the assessment model adopted by this approach, to date, there has been no empirical investigation of the relationship between the actual MS (as measured by the final revised version of the HSE Indicator Tool) and stress-related work outcomes.



This work aimed to investigate the relationship between the HSE MS and the following stress-related work outcomes:

- job satisfaction
- job-related anxiety and depression
- errors/near misses.

The project involved an anonymous cross-sectional questionnaire, which was sent out by either e-mail or post to all employees within a community-based Health and Social Services Trust. Respondents completed the HSE Indicator Tool, a job-related anxiety and depression scale, a job satisfaction scale and an aggregated measure of the number of errors/near misses witnessed. Associations between the HSE Indicator Tool responses and stress-related work outcomes were analysed with regression statistics.

A total of 707 employees completed the questionnaire, representing a low response rate of 29%. Controlling for age, gender and contract type, the HSE MS (as measured by the HSE Indicator Tool) were positively associated with job satisfaction and negatively associated with 'job-related anxiety', 'job-related depression' and 'witnessed errors/near misses'.

It is concluded that this study provides empirical evidence to support the use of the MS approach in tackling workplace stress.

Dounreay Project Assessment Report

Dounreay Sites Restoration Limited (DSRL) wrote to Nuclear Directorate (ND) in February 2010 requesting agreement to their proposal to commence decommissioning a facility known as D1206/34.

This facility was originally used for reprocessing irradiated material from the Dounreay Prototype Fast Reactor (PFR). Operations in the D1206/34 facility ceased in the mid-1990s. At that time, the facility was placed into a safe state with most of the fissile material inventory being removed and operations carried out under a care and maintenance regime to ensure the integrity of plant and equipment. The facility now contains only low levels of residual radioactive material.

DSRL has provided an 'overarching' Decommissioning Safety Case that identifies the main hazards and risks associated with the decommissioning activities. Detailed work control will be achieved through DSRL's arrangements for managing modifications to ensure that risks remain as low as reasonably practicable ('ALARP'). ND has assessed this safety case.

Matters to arise

ND noted that the safety arguments in the Decommissioning Safety Case are presented in a logical and well-structured manner demonstrating an organised and systematic approach to planning and carrying out the decommissioning work.

ND has identified some minor weaknesses in the safety case regarding management controls, and the means by which potential worker doses have been estimated. However, ND notes that potential worker doses are relatively low, even in the event of an accident, and considers that relevant aspects of management control can be addressed by routine compliance inspection. ND further considers that DSRL has made an adequate commitment to improve operational safety through their safety case implementation plan.

ND has requested that DSRL carry out a readiness inspection of D1206/34 prior to the commencement of decommissioning and submit the inspection report to ND for information. ND will also continue routine compliance inspection of the D1206/34 complex. This regulatory approach is considered to provide an effective oversight of the decommissioning work proposed to reduce, and eventually remove, the hazards posed by D1206/34.



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Conclusions

ND's assessment of the D1206/34 Decommissioning Safety Case has confirmed that an adequate assessment of the hazards and risks has been carried out by DSRL, albeit with some minor weaknesses. ND considers that these weaknesses would be best addressed through targeted inspections as the decommissioning progresses. Consequently ND agrees that the requested decommissioning work can commence.

Recommendation

It is recommended that Licence Instrument 512, giving ND Agreement to DSRL under LC 15(1) of Schedule 2 of Nuclear Site Licence SC17, be issued to allow DSRL to implement the D1206/34 Decommissioning Safety Case DNSC(09)P027 Issue 2.