

Prosecutions

£90k Fine after 'Astonishing Decision'

A packaging firm has been fined £90,000 after two workers were seriously injured in a fireball at a factory in Cumbria.

Innovia Films was prosecuted by the Health and Safety Executive (HSE) at Carlisle Crown Court following the fire at its Wigton plant in September 2006. It pleaded guilty to contravening health and safety regulations.

The company said it was sorry for the injuries suffered and it had worked hard to improve its safety systems.

One of the men, electrician Gordon Metcalf, 62, from Maryport, suffered burns to 47% of his body and was in a coma for four weeks and intensive care for six weeks.

He has been unable to return to work and is still receiving treatment. He and another worker, who asked not to be named, were about to clean debris from a damaged fuse box when the fireball engulfed them.

The HSE said its investigation found there had been a fire in the fuse box but live cables had been routed through it so cooling equipment at the factory could continue to operate.

Mr Metcalf said he still had nightmares about what happened.

In a statement read out by his wife Mary, he said: "It has been a long five years. An accident that need not have happened had Innovia had the electricity supply switched off.

"Innovia will now pay their fine, move on and the incident will be forgotten.

"I can never forget. I am reminded every day by the scars on my body, the things and tasks I can no longer do and the trauma I still experience." He said he hoped lessons had been learned.

Health and Safety Executive principal inspector for Cumbria Mark Dawson said: "It was an astonishing decision to allow work to go ahead without the live electricity supply being switched off and even went against the company's own work procedures.

"If the factory had been shut down for just a day-and-a-half then neither of the workers would have suffered severe burns."

The HSE was criticised for the length of time it had taken to bring the case to court and it said it would be taking note.

In a statement, Innovia Films said: "We are of course extremely sorry for the suffering caused to our two injured colleagues and are pleased to say that we were able to deal with this matter in a way that saved them from having to give evidence and relive the events of nearly five years ago.

"Innovia Films remains absolutely committed to Health and Safety.

"We have worked hard to further improve our safety system to ensure that such an accident does not occur again in the future and that work will continue."

The company was ordered to pay £26,790 prosecution costs.

Asbestos Exposure at M&S

Marks and Spencer plc and two of its contractors have been convicted of putting members of the public, staff and construction workers at risk of exposure to asbestos-containing materials during the refurbishment of two stores.

Asbestos is the biggest single cause of work-related deaths in the UK, with an estimated 4,000 people dying every year.

The Health and Safety Executive (HSE) prosecuted Marks and Spencer plc, Willmott Dixon Construction Ltd and PA Realisations Ltd (formerly Pectel Ltd). The work was carried out between 2006 and 2007 on shops in Reading and Bournemouth.

Winchester Crown Court heard **construction workers at the two stores removed asbestos-containing materials that were present in the ceiling tiles and elsewhere.**

The court heard that the client, Marks and Spencer plc, did not allocate sufficient time and space for the removal of the asbestos-containing materials at the Reading store. The contractors had to work overnight in enclosures on the shop floor, with the aim of completing small areas of asbestos removal before the shop opened to the public each day.

The HSE alleged that Marks and Spencer plc failed to ensure that work at Reading complied with the appropriate minimum standards set out in legislation and approved codes of practice. The company had produced its own guidance on how asbestos should be removed inside its stores, and the court heard that this guidance was followed by contractors inappropriately during major refurbishment.

The contractor, PA Realisations Ltd, failed to reduce to a minimum the spread of asbestos to the Reading shop floor. Witnesses said that areas cleaned by the company were re-contaminated by air moving through the void between the ceiling tiles and the floor above, and by poor standards of work.

The principal contractor at the Bournemouth store, Willmott Dixon Construction Ltd, failed to plan, manage and monitor removal of asbestos-containing materials. It did not prevent the possibility of asbestos being disturbed by its workers in areas that had not been surveyed extensively.

After the hearing, Charles Gilby, HSE Principal Inspector, said:

"This prosecution exposed serious failures by Marks and Spencer and its contractors that we hope others will learn from. This verdict is a wake-up call for the retail industry. Client accountability and responsibility is at the heart of this case, because asbestos can and does kill.

"There are very real lessons here for the country's large retailers and other organisations engaging in programmes of refurbishment, that they must allow enough time and resource to carry out work without endangering anyone."

Marks and Spencer plc, of Waterside House, North Wharf Road, Westminster, was found guilty of breaching section 2(1), relating to their own staff, and section 3(1), relating to members of the public and other workers, of the Health and Safety at Work etc Act 1974. These charges relate to the Broad Street Reading store and date from 24 April to 13 November 2006.

Willmott Dixon Construction Ltd, of Hertfordshire, was found guilty of contravening sections 2(1) and 3(1) of the Health and Safety at Work etc Act 1974 between 5 February 2007 and 28 February 2007. These breaches took place at the Marks and Spencer plc store in Commercial Road, Bournemouth.

Manchester-based company PA Realisations Ltd (formerly Pectel Ltd), of the Observatory, Chapel Walks, Manchester, was found guilty of contravening regulation 15 of the Control of Asbestos at Work Regulations 2002 between 5 May 2006 and 12 November 2006 at the Marks and Spencer plc store on Broad Street, Reading.

At an earlier hearing, Styles & Wood Limited, of Manchester Road, Altrincham, Cheshire, pleaded guilty to contravening sections 2(1) and 3(1) of the Health and Safety at Work etc Act 1974. These charges relate to offences committed between 24 April and 13 November 2006 at the Marks and Spencer plc store on Broad Street, Reading.

Worker's Arm Torn Off in Maintenance Incident

A Leicestershire manufacturing firm has been fined after an employee's arm was torn off by a giant industrial 'corkscrew' as he was carrying out repairs.

The Health and Safety Executive (HSE) prosecuted London Concrete Ltd after a manager accidentally turned on an auger - a large corkscrew-like machine which moves dry materials from one level to another - while it was being repaired at a factory in Wapseys Wood, Oxford Road, Gerrards Cross.

Aylesbury Crown Court heard that a 50-year-old employee, who does not wish to be named, was working on the machine on 28 and 29 May 2008.

He attempted an initial repair on 28 May with the electrical power to the auger incorrectly isolated and without completing the permits for the work required by company policy. The repair failed. He attempted another repair the following day and both he and his supervisor failed to check that the power had again been isolated, in breach of company procedures.

When the supervisor accidentally activated the machine, it tore the man's arm off above the elbow.

The experienced fitter had worked in the industry for 23 years before joining London Concrete Ltd 10 months before the incident.

The HSE investigation found that although London Concrete trained its workforce on safety and could isolate power to machines and prevent them from being used during repairs, it failed to provide the injured man with initial training or any additional information about the equipment he was working on or company procedures. Inspectors also discovered that the plant manager did not supervise work correctly, which meant company permits to work was frequently not completed.

HSE's inspector, Nigel Fitzhugh said:

"This was a terrible, preventable incident which resulted in a man having his left arm torn off above the elbow, an agonising injury which has had a profound and devastating effect on him.

"There was clearly a foreseeable risk of this sort of incident happening. London Concrete Ltd had in place measures to mitigate this kind of incident, but crucially failed to provide training to the injured man and failed to ensure that its own isolation procedures were followed.

"Permits to work are designed to prevent just the sort of misunderstanding that existed between the manager and the fitter.

"Incidents such as this show how important it is that safety training and procedures should exist in practice, not just on paper."

London Concrete Ltd, of Baron Hall, Copt Oak Road, Markfield, Leicestershire pleaded guilty on 3 May 2011 at High Wycombe Magistrates Court to breaching section 2(1) of the Health and Safety at Work etc Act 1974. At Aylesbury Crown Court (18 July 2011), the firm was fined £16,000 and ordered to pay costs of £9,397.

Glass Firm Fined After Worker Seriously Hurt

A glass manufacturer has been fined after an employee's arm was cut to the bone when a sheet of glass shattered in his hand.

Ian Swain, 37, of Spoundell, Dunstable, worked in the glass toughening section of the Nicholls and Clarke Glass factory on the Woodside Industrial Estate, also in the Bedfordshire town.

Luton Magistrates' Court heard that on 20 October 2009, he picked up a large piece of glass when it cracked and shattered without warning. One of the shards lacerated his right forearm above his wrist guard, severing the artery, muscle and nerves.

Mr Swain was taken to hospital where he received over 250 stitches. He wore a plaster cast for three months, and has lost the full feeling in his right forearm and some movement in his wrist. He is still undergoing physiotherapy and has since lost his job.

The Health and Safety Executive (HSE) investigation into the incident found the protective equipment Nicholls and Clarke provided for its employees was inadequate and insufficient. It also found the company had failed to report a similar incident which had seriously injured another employee on 23 June 2008.

Nicholls and Clarke Glass Ltd, which is registered at Freshwater Road, Romford, Essex pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974 and Regulation 3(2) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 for which it was fined a total of £11,200 with £3,977.40 costs.

HSE Inspector Emma Rowlands said:

"Had Mr Swain been provided with full arm protection he would have avoided serious injury. Guidance on the provision of personal protective equipment for employees is freely available from HSE and trade associations, this could easily have been referred to.

"I am pleased to see Nicholls and Clarke Glass are now issuing all their employees with cut resistant long sleeved polo shirts to wear while working in their factories.

"HSE will not hesitate to take action against companies failing to comply with the law."

News

CPS To Charge Lion Steel Ltd in Second Corporate Manslaughter Case

The Crown Prosecution Service (CPS) has announced that Lion Steel Equipment Ltd will be charged with corporate manslaughter under the Corporate Manslaughter and Homicide Act (CMHA) 2007. This will be the second such case brought under the CMHA.

Steven Berry died on 29 May 2008 after falling through a plastic roof light on an industrial unit at Lion Steel Equipment's premises in Hyde. The firm, which manufactures storage products, has been summonsed for corporate manslaughter and health and safety offences.

Alison Storey, reviewing lawyer in the CPS Special Crime and Counter Terrorism Division, said: "I have advised Greater Manchester Police to charge Lion Steel Ltd in Manchester with corporate manslaughter following the tragic death of Steven Berry at the Hyde site on Johnson Brook Road when he fell through a fragile roof panel and died as a result of injuries sustained in the fall. I have also decided that three of the company directors - Kevin Palliser, Richard Williams and Graham Coupe - should be charged with gross negligence manslaughter.

"The three men are also charged under section 37 of the Health and Safety at Work Act 1974 for failing to ensure the safety at work of their employees. Lion Steel is also charged under section 2 and 33 of the Health and Safety at Work Act 1974 for failing to ensure the safety at work of its employees.

"I have taken this decision after very carefully reviewing the material gathered in the police investigation, and have concluded that there is sufficient evidence for a realistic prospect of conviction and that it is in the public interest to bring these charges."

The first hearing will take place at Tameside Magistrates' Court on the 2 August 2011.

Phil Wright, chief engineer, Allianz Engineering, said the charges against Lion Steel Equipment were a reminder that the Corporate Manslaughter Act was now being fully enforced.

"This should stress to companies that a breach of the Act isn't something that will be taken lightly. While the outcomes of this case are yet to be determined, the firm could be issued a sizeable fine which could potentially cripple the business."

Mr Wright said he was concerned that with the current demand for a reduction in red tape, site and plant inspections would be scaled back, which would make it less likely that problem areas will be identified. He added that letting standards slip could lead to companies facing prosecution like that received by Cotswold Geotechnical Holdings.

He added: "It is imperative that firms look closely at their procedures and risk assessments. It is also vital that companies keep an up-to-date record of all health and safety training received by staff as this could be vital in mitigating the risk to both employees and the business."

Safety on UK Railways

The Office of Rail Regulation (ORR) has called on the rail industry to maintain its focus on safety, as it published its annual health and safety report showing both improvements and areas for attention.

The ORR's annual health and safety report 2010-11 gives an update on key safety issues facing UK railways. In the report, the regulator stresses that 'in well-run businesses improved safety and efficiency go hand in hand'.

This year's key findings include:

- potential high risk train accidents on the mainline railway showed a significant reduction, from 42 in 2009/10 to 18 in 2010/11 – a record low
- the lowest number of collisions (five) between trains and vehicles at level crossings in recent years
- workforce safety continues to improve on both the mainline and London Underground (LUL) despite increased reporting rates of minor injuries by Network Rail following the regulator's intervention last year. ORR said: "Network Rail's leadership and culture change programme is a vital step towards achieving improvements in its workforce safety"
- London Underground (LUL) achieved ORR's vision of zero workforce and industry caused passenger fatalities as it has done on past occasions
- the regulator is pressing the industry to maintain, and in some places redouble, efforts to address areas of concern.

The report also found that:

- last year the regulator issued 48 enforcement notices and completed eight prosecutions
- on the mainline railway, overall passenger harm increased by a further 2%, with more passengers coming to harm at the platform and train interface
- low adhesion between the wheels of trains and rails is of significant concern from last autumn and the regulator is not convinced that the industry has a reliable strategy, both for existing rolling stock and the specification for new rolling stock
- more action is needed to control level crossing risk at individual crossings.

Care Homes Failing on Fire Safety

A number of care homes across London have been ordered to improve after failing the most basic fire safety standards.

Owners of care homes and people responsible for their operation are required by law under the terms of the Fire Safety Order 2005 regulatory reform to conduct a thorough fire risk assessment.

Despite this, London Fire Brigade has issued legal enforcement orders to 29 care homes that were found to be in breach of safety rules since 2010, a BBC investigation has revealed.

LFB officers found that the most common lapses included lack of fire escape plans, no training for staff and no marked fire exits. Some of the homes had as many as eight individual breaches of fire regulations.

Jenny Jones, Green Party London Assembly member, told the news provider: "It is quite horrifying. In care homes you have some of the most vulnerable people in society – people who can't move around quickly.

"It's crucial those homes have good fire safety procedures."

Fire safety risk assessments consist of identifying potential fire hazards, identifying people in and around the premises that are at risk, evaluating the risk of fire occurring and identifying ways to minimise the threat.

This should be done through the use of clear warnings; removing obstacles; marking out escape routes; informing, instructing and training staff; and properly maintaining your facilities.

IOSH Signs Charter for Young People

IOSH has joined organisations across the UK in calling for greater investment in preparing young people for the world of work.

The Young Enterprise Charter, signed by chief executive Rob Strange OBE, calls for enterprise education to be made a priority and placed in the statutory curriculum.

It is a message that chimes well with IOSH's ongoing drive to educate young people about occupational risk before they enter employment.

Head of policy and public affairs Richard Jones said: "Young people are the entrepreneurs of the future so it's really important that we get sensible health and safety embedded into their thinking before they go out and start building businesses for real."

The UK's Young Enterprise (YE) scheme is part of Junior Achievement Worldwide, a global organisation dedicated to educating students about entrepreneurship and financial literacy through hands-on programmes.

IOSH and its members have been involved since 2005, including the introduction of a health and safety awareness award on YE's Company Programme. The YE Charter will be presented to Parliament in the autumn.

Guidance

For Users of Pressure Systems

Pressure systems can range from steam-generating commercial coffee machines to large boilers. When using pressure systems every employer or self-employed person has a duty to provide a safe workplace and safe work equipment. Designers, manufacturers, suppliers, installers, users and owners have additional health and safety duties.

A pressure system is one that contains or is likely to contain a relevant fluid over 0.5 bar.

The main legislation covering the duties of a user of pressure equipment is the Pressure Systems Safety Regulations 2000 (PSSR).

In general terms, the HSE advise that a user must:

Provide safe and suitable equipment

- eg are the right materials being used in the manufacturing process and are modifications/repairs being carried out properly?

Know the operating conditions

- including the characteristics of the relevant fluid in the system and the safe operating limits of the equipment.

Fit suitable protective devices and ensure they function properly

- eg devices such as safety valves, bursting discs and electronic appliances, and ensure they are adjusted to their correct settings and in good working order at all times.

Carry out suitable maintenance

- including a whole-system maintenance programme that considers factors such as age, uses and the environment in which it is operated.

Make provision for appropriate training

- so that anybody who operates, installs, maintains, repairs, inspects or tests pressure equipment has the necessary skills and knowledge to carry out their job safely. Refresher training should be included.

Have the equipment examined

- as required under PSSR, including production of a written scheme of examination (WSE), to be used by a competent person to carry out the examination – details in the PSSR Approved Code of Practice (L122).

Choose a competent person

- ensuring they have the necessary knowledge, skills and, importantly, independence to undertake their role and responsibilities effectively.