

## Prosecutions

### Fire Offences lead to £130,000 in Fines

A business owner has been fined £80,000 and ordered to pay Cheshire Fire and Rescue Service over £50,000 in costs after pleading guilty to serious breaches of fire safety legislation.

Paul Ashley of P and S Ashley Timberworks appeared before Chester Crown Court on Tuesday 11 May 2010. He pleaded guilty to eight counts of breaching the Regulatory Reform (Fire Safety) Order 2005 (RRO).

The judge passed the following sentences in respect of the offences:

- £30,000 – lack of suitable and sufficient risk assessment
- £20,000 – failure to take suitable and sufficient preventative and protective measures
- £30,000 – all other offences sentenced at the same level including lack of suitable fire alarm and unsuitable means of escape.

In addition, full costs of approximately £50,300 were ordered to be paid to Cheshire Fire and Rescue Service. The total sum of £130,300 is to be paid within three years by Mr Ashley.

The court heard that timber was found to have been piled high in the yard and combustible materials, including cylinders containing liquid petroleum, blocked escape routes. Various appliances were also found to have electrical faults. The court heard Ashley produced a risk assessment, but inspectors deemed it 'inadequate'.

Mark Cashin, Deputy Chief Fire Officer for Cheshire Fire and Rescue Service, said:

"Fire safety is a key part of good business management and Mr Ashley showed little or no regard for the safety of his employees or the people living and working around his premises.

"The action was brought against Mr Ashley after he repeatedly refused to carry out essential fire safety work on the business. This included the lack of a suitable fire alarm, unsuitable means of escape and the implementation of a suitable and sufficient risk assessment. This was despite a number of visits by fire service personnel."

### Firm Fined...Again

The Health and Safety Executive (HSE) has prosecuted a Telford confectionery company after a worker's head was hit with a one tonne force.

Magna Specialist Confectioners Ltd (MSC) was fined a total of £75,000 and ordered to pay costs of £37,500 by Shrewsbury Crown Court.

The company already pleaded guilty on 9 December 2009 at Shrewsbury Crown Court to breaching Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998. A previous prosecution of the company in February 2008, under the same regulation, had already led to the company being fined £25,000.

The court heard how on 22 February 2007, at Magna's site on Stafford Park Nine, Telford, an employee was attempting to wipe up a leak of refrigerant inside the interlocked safety doors of a machine on the production line. As his head went through the doors into the machine, the powered part of the machinery moved forcefully to one side, closing the gap between it and a static part of the machine to approximately 5cm (2 inches). The impact to the front of his head did not fully trap his head in the gap but luckily threw him out of the machine and prevented instant death.

The employee spent two weeks in a coma and serious head injuries have left him with a significant level of blindness and deafness, loss of taste and smell as well as suffering personality changes.

Speaking after the case, HSE investigating inspector Guy Dale said:



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"It's a fundamental expectation that employees should be able to work in safety. Assessing risks and implementing controls often only requires simple, cost-effective actions to be taken.

"An operative should not have been able to get to the dangerous parts of the machine while it was working at full production speed. When the interlocked doors were opened, the production line should have been designed to stop.

"The injured man is only in his early 30s and had the promise of a healthy future but now has such permanent damage that his future prospects and employment potential are severely restricted. He has a wife and a young daughter born a few months after the incident occurred.

"The fine imposed by the Crown Court reflects that there was a previous history cataloguing systemic machinery guarding failures in the company and a lack of risk assessment leaving employees exposed to risk to their health and safety."

### Warning to Businesses

Businesses have been urged to take proper precautions when their staff work at height following an accident in which a worker suffered serious back injuries when he plunged more than three metres from a terrace retaining wall on a construction site.

There were no guardrails in place to prevent Graham Parkin falling from height as he accessed a work area. He suffered a fractured vertebrae and has been left with long-term disability problems as a result.

The Health and Safety Executive (HSE) prosecuted Illson (Builders & Contractors) Ltd, of North Parade, Burley in Wharfedale, for a breach of the Work at Height Regulations 2005 over the incident, which occurred at the Corn Mill in Burley on 19 November 2008. The company was acting as principal contractor on the construction site.

Illson also pleaded guilty to a charge under the Construction (Design and Management) Regulations 2007 [for failing to notify HSE that construction work was due to take place on site].

Kendal Varley Ltd, Mr Parkin's employer, also pleaded guilty to the same CDM Regs charge.

Bradford Magistrates' Court heard that because both companies were the clients for the work, they should have appointed a Construction Design and Management co-ordinator (CDMc) to notify HSE of the construction work. Their failure to do so led to the responsibility for non-notification reverting to them.

Illson (Builders & Contractors) Ltd was fined £5,000 and ordered to pay costs of £1,800 for both offences while Kendall Varley Ltd was given a fine of £2,000 and costs of £1,800 for the one offence.

After the hearing HSE Inspector David Welsh commented:

"If HSE had been correctly notified that work on the Corn Mill was going to take place, it could have inspected the site and the injury may have been averted. The measures in place at the time - the responsibility of Illson (Builders & Contractors) Ltd - simply did not amount to a safe system of work, and as a result Graham Parkin sustained a serious, long-term, fall from height injury."

### Fine after Window Cleaner Falls

Lincoln College has been fined £1,500 after a window cleaner fell four metres - suffering broken ribs and a serious back injury.

James Theaker, 50, from Lincoln, was employed by A Nicoll & Son Ltd, when he was contracted to clean windows at Lincoln College, Monks Road in the city on 4 November 2008.

Mr Theaker accessed the roof of the main reception building using a ladder and leaned against the building to clean nearby windows, when he fell.

He spent a week in hospital and was forced to stay off work for months. Even now he can only carry out restricted duties.



Lincoln College pleaded guilty to breaching Regulation 3(1) of the Management of Health and Safety Regulations 1999 at Lincoln Magistrates' Court today for failing to conduct a sufficient risk assessment. As well as the fine, the college was also ordered to pay £9,500 towards prosecution costs.

A Nicoll & Son Ltd, of Crofton Drive, Allenby Road Industrial Estate was prosecuted in October 2009 by HSE after pleading guilty for its role in the incident and was fined £2,500 and ordered to pay costs of £2,948.20.

Following the hearing, HSE Inspector Judith McNulty-Green said:

"Mr Theaker has suffered life-changing injuries as a result of his fall. Lincoln College had a legal duty to check its contractors had proper procedures in place but failed to do so.

"Every month more than a thousand people suffer serious injuries as a result of slips, trips and falls in the workplace. These shattering injuries can be avoided by sensible and proportionate assessment of the risks, but sadly that was not done in this case.

"Employers and organisations that hire contract staff have a joint responsibility to ensure the safety of all staff who work on site, to avoid serious incidents such as this."

### Compressed Air Injury

A Welsh company has been prosecuted after a worker was injured by compressed air.

RWE Npower of Whitehill Way, Swindon managed the Aberthaw Power Station in the Vale of Glamorgan where the incident happened. A contractor was injured while working on a compressed air system on 22 February 2007. He had a permit to work the system but believed it had been isolated.

He opened the system while it was still charged, and received hand and arm injuries from the escaping compressed air.

RWE Npower of Whitehill Way, Swindon, pleaded guilty to one charge under Section 3(1) of the Health and Safety at Work etc Act 1974 and at Cardiff Crown Court was fined £8,000 with costs of £14,000.

HSE Inspector Steve Curry said:

"It was the responsibility of the RWE Npower in this case to ensure that areas that they had declared as being safe to work in, were actually safe. There was a significant failing in those responsibilities on this occasion.

"The pressure in this particular system can reach around 80 psi (pound-force per square inch), and the contractor continued work having been provided with a permit effectively confirming that the area where he was working had been isolated. Clearly his injuries demonstrate that this was not the case.

"Compressed air can be extremely dangerous if not handled properly and so the need for a safe system of working with it, is particularly important."

### Another Fall from Height Fine

A Scarborough fishing boat operator has been prosecuted after an electrician suffered serious injuries when he fell from a ladder while aboard the company's boat.

Contractor Philip Parcell, 53, from Newby, broke his back in three places, fractured his skull in two places and sustained nerve damage to the left side of his face after plummeting between decks of the Our Julia when it was moored in Scarborough harbour on 16 July last year.

Scarborough Magistrates heard that Cayton-based Our Julia Ltd, which owns the boat, failed to provide a suitable ladder for Mr Parcell to descend between decks as he fitted new bilge alarms. The court also heard that the company's managing director Nick Polihronos positioned the unsafe ladder.



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Mr Parcell has been forced to give up work as an electrician as a result of the fall.

Our Julia Ltd, of Main Street, Cayton, pleaded guilty of breaching regulation 8(e) of the Work at Height Regulations 2005 The company was fined £7,000 and ordered to pay £2,028 costs.

After the hearing HSE inspector Paul Newton said:

"The injuries Mr Parcell sustained from his fall aboard Our Julia were horrific and they could have been prevented.

"Too many lives are shattered as a result of falls from height at work, and I hope today's prosecution serves to remind all employers that proper precautions must be taken at all times."

## News

### New Air Safety Measures

Last week, the UK Civil Aviation Authority (CAA) announced new measures to reduce airspace closures caused by volcanic ash.

A new area of operations can now be introduced that creates a 'Time Limited Zone (TLZ)' between the black 'No Fly Zone (NFZ)' and the red 'Enhanced Procedures Zone (EPZ)'. Aircraft and engine manufacturers, based on new research and analysis, have agreed that it is safe to allow operations in the new zone for a limited time at higher ash densities than is currently permitted.

To operate in the new zone airlines need to present the CAA with a safety case that includes the agreement of their aircraft and engine manufacturers. UK airline Flybe was the first to achieve this and was able to use the new zone.

This means that areas of our airspace that would have previously been closed can safely open, further minimising flight disruption.

Announcing the change Andrew Haines, Civil Aviation Authority Chief Executive, said: "I'm pleased that the huge efforts we're all making across aviation to keep flying safe whilst minimising the disruption from the volcano have resulted in further progress. Unprecedented situations require new measures and the challenge faced should not be underestimated. Firstly because the standard default procedure for aircraft that encounter ash, to avoid it completely, doesn't work in our congested airspace. Secondly, the world's top scientists tell us that we must not simply assume the effects of this volcano will be the same as others elsewhere. Its proximity to the UK, the length of time it is continuously erupting and the weather patterns are all exceptional features.

"The answer can only come, therefore, from aircraft and engine manufacturers establishing what level of ash their products can safely tolerate. At an international aviation conference we held last Thursday, attended by all the leading airline operators this approach was welcomed and supported. The manufacturers are co-operating fully and urgently in this task and the new zone is an excellent example of how the industry should be working to move the issue forward and I commend Flybe for its work.

"It's the CAA's job to ensure the public is kept safe by ensuring safety decisions are based on scientific and engineering evidence; we will not listen to those who effectively say 'let's suck it and see.'"

The introduction of the Time Limited Zone is based on measurements collected from test flights through the current ash cloud over the past month, as well as on data and evidence compiled and analysed from previous volcanic ash incidents combined with additional analysis from manufacturers.

Operations in the newly established Time Limited Zone may be subject to time limits and increased maintenance practices. The new Zone's area will be established using Met Office forecasts, and will be approved by the CAA before operations are allowed within it.

The CAA will maintain its focus on the public interest by bringing the industry together to facilitate safe operations. Already over the past month there has been much learning from the combined efforts of operators, manufacturers, NATS, other regulators, forecasters from the Met Office, volcanologists and research agencies and this will continue.



## Guidance

### Taking Care of Business: Employee Guide to Mentally Healthy Workplaces

Mental health charity MIND has launched an awareness campaign 'Taking Care of Business' to encourage employers to do more to tackle mental health problems at work.

In a guide issued for employers, the charity suggests that mental health problems like anxiety, depression and unmanageable stress affect one in six British workers each year. Yet employers and employees are not clear on how to confront the issue, and, as a result, millions of workers are putting on a 'brave face', hiding the fact they are experiencing distress. The cost of work-related mental ill health to the UK economy is up to £26 billion every year through lost working days, staff turnover and lower productivity.

This guide is an introduction to the issues and sets out ideas for improving the mental wellbeing of the workplace.

Employers have a 'duty of care' under UK law to protect the health, safety and welfare of all employees. Risks arising from hazards at work, including work-related mental health problems, must be assessed.

To create a mentally healthy workplace, the guidance suggests the need for a comprehensive strategy that:

- promotes wellbeing for all staff
- tackles work-related mental health problems
- supports staff who are experiencing mental distress.

Initially, employers should assess the current systems in place for ensuring a healthy workplace by undertaking staff surveys. Once the situation has been established, proper planning can help to make key improvements to the wellbeing of the organisation.

The guide identifies three areas that need to be considered when planning for the mental wellbeing of an organisation. Recommendations are included to give an idea of how to apply good mental health practices in the workplace.

### Asbestos Advice for Retailers

Retailers are being sent a quick reference factsheet to help them understand their legal responsibilities on asbestos to ensure their workers, customers or any contractors are protected from exposure.

The Health and Safety Executive (HSE), together with the BHF-BSSA Group - an independent retail trade body representing more than 7500 small retailers - has issued the guidance after it was found that compliance with 'duty to manage' regulations was particularly low in this sector.

Any person or organisation responsible for the maintenance or repair of non domestic premises will almost certainly be responsible for managing any asbestos present, under Regulation 4 of the Control of Asbestos Regulations 2006 [232269].

The Fact Sheet outlines:

- who has the duty to manage
- what the duty to manage means
- three essential steps to comply with the duty
- advice on asbestos surveys.

Steve Coldrick, HSE's Asbestos Programme Director, said:

"Around 4,000 people die each year from past exposure to asbestos. It may be present in any building built before the year 2000, and so it is essential that retailers are aware of the risk it still poses and their responsibilities in managing it.



"Working with the BHF-BSSA to put in simple terms what businesses should be doing will help remove any mystery or uncertainty around the regulations."

Michael Weedon, BHF-BSSA Group Communications Manager, said:

"Contractors never know what they are walking into when they start work on a job but retailers walk into the same premises day after day after day, so they really need to know what is lurking in their environment."

"Our factsheet sets out to make the subject clear and easy to understand, both for those who own their own premises and those who rent them from others."

### Staff Driving in Europe?

If you have employees driving abroad this summer, make sure they are properly equipped to meet the various laws required in other countries.

It is important to have the compulsory or recommended equipment when driving in Europe in order to avoid on-the-spot fines. The AA has issued comprehensive advice. Some of the factors to consider include:

#### *Documentation*

Drivers may be asked to produce their documents at any time. To avoid a police fine and/or confiscation of the vehicle, documents must be in order and readily available for inspection. Necessary documents include:

- a valid full driving licence (not provisional), with paper counterpart if it is a photocard licence
- an International Driving Permit when necessary
- the original vehicle registration document
- motor insurance certificate
- passport
- visa (for certain countries).

#### *Borrowed, hired or leased vehicles*

When taking a vehicle abroad that is company owned, hired or borrowed the original V5 registration document together with a letter of authorisation from the owner is advised. If this isn't available, the AA recommend obtaining a document called a Vehicle on Hire Certificate also known as the VE103b. This document is available from BVRLA/All fleet services on 01452 887686 and is the only legal alternative to the vehicle registration document.

The Vehicle on Hire certificate must be carried in addition to a letter of authorisation from the registered keeper.

#### *Mobile phones*

The use of hand-held mobile phones while driving is prohibited in many countries.

#### *GB Sticker*

These stickers are compulsory, and failure to comply could result in an on-the-spot fine. Euro-plates - number plates that include the GB euro-symbol - have been legal since March 2001 and make display of a conventional sticker unnecessary within the EU.

In some countries outside the EU a conventional sticker is required even if euro-plates are on the vehicle, so it is always safer to display one.

#### *Reflective Jackets*

It is now compulsory in many European countries for visiting motorists to carry/wear reflective jackets.



In addition, as they are compulsory for residents in Norway and Portugal the AA recommend that they are carried by visitors too.

The AA also recommends that each vehicle carries at least two jackets/waistcoats in the passenger compartment - one for the driver and one for a passenger.

The Jacket/waistcoat must conform to EU Standard BS EN 471: 1994 Class 1 or 2.

### *Headlights*

If driving to the Continent and using headlights then drivers must adjust the headlamp beam pattern to suit driving on the right so that the dipped beam doesn't dazzle oncoming drivers.

The legal requirement is to 'not cause dazzle to oncoming drivers' rather than specifically to adjust/convert headlamp beam pattern. Even if only a short trip and plans do not entail driving at night, delays can not be predicted or the weather can change suddenly so the AA recommends that drivers always adapt headlights or at the very least take the means with you to do so.

## **Chemical Safety Assessment: Consumer Exposure Estimation**

This document, which is the second version, describes the information requirements under REACH with regard to substance properties, exposure, use and risk management measures, and the chemical safety assessment. It is part of a series of guidance documents that are aimed to help all stakeholders with their preparation for fulfilling their obligations under the REACH regulation. These documents cover detailed guidance for a range of essential REACH processes as well as for some specific scientific and/or technical methods that industry or authorities need to make use of under REACH. It has been published by the European Chemicals Agency.

The aim is to describe an efficient, step-wise and iterative procedure for the estimation of consumer exposure to substances on their own, in preparations or in articles. It provides advice on how to assess consumer exposure to chemicals. It consists of the following sections:

- workflow for consumer exposure assessment
- general considerations related to assessment of consumer exposure
- calculation of consumer exposure at Tier 1 level
- tools for supporting exposure scenario building at Tier 1 level
- higher tier models and measured data
- risk characterisation
- overview on information sources and available tools.

Exposure estimation is carried out for the conditions of consumer uses of substances as defined in the relevant exposure scenarios.

## **Reports**

### **Fire Statistics Monitor**

The latest National Statistics on fires, casualties and false alarms attended by the Fire and Rescue Services in the United Kingdom have been released.

These statistics are the latest available national figures and comprise:

- numbers of fatalities in England for the period April to September 2009
- revised data on all measures for UK and England for 2008-09.

Key points on the fatalities data for England for April to September 2009 are as follows:



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- between April and September 2009 there were 162 fatalities, 43 more than in the same six months of 2008
- most of the overall increase of 43 fatalities was in accidental dwelling fires, in which there were 31 more fatalities in April to September 2009 (101 compared to 70 in April to September 2008)
- in 2008-09 there were 322 fire fatalities, 36 fewer than in 2007-08.

Key points on revised 2008-09 data on fire incidents and non-fatal casualties are as follows:

- the United Kingdom Fire and Rescue Services attended 722,000 fire and false alarm incidents in 2008/09 - a 10% decrease on 2007/08. In England, 562,000 incidents were attended (also a 10% decrease)
- total fires fell by 15% to 326,000 for the UK and by 15% in England (to 249,000)
- primary fires in the UK fell by 9% to 128,000. Within this, dwelling fires fell by 6% to 49,000 and fires in other buildings - including workplaces and areas where people gather - were down by 10% to 27,000. Road vehicle fires fell by 12% to 44,000
- primary fires in England fell by 9 % to 104,000. Within this, dwelling fires fell by 7% to 39,000 and fires in other buildings were down by 10 % to 22,000. Road vehicle fires fell by 12% to 36,000
- UK secondary fires fell by 20% to 185,000, as with England, where they also fell by 21% to 137,000.
- attendances to UK false alarms decreased by 5% to 397,000. Within this there was a 19% fall (to 23,000) in malicious false alarms and a 2% fall (to 264,000) in false alarms due to apparatus
- in England, attendances at false alarms decreased by 6% to 313,000. Within this there was a 20% fall (to 17,000) in malicious false alarms and a 4% fall (to 207,000) in false alarms due to apparatus
- in 2008-09, the number of non-fatal casualties from fires in the UK fell by 9% to 12,000 from 13,100 in 2007-08. In England there were 9,200 non fatal casualties in 2008-09, down 11 % compared to 2007-08.

### Risks from Ionising Radiation: HPA Submission to Safegrounds

Safegrounds is updating and revising its 2005 risk assessment document to produce a separate radiation risks paper which will summarise the debate on radiation risks in a form that a wide range of stakeholders can understand. The Health Protection Agency (HPA) has issued a submission for the development of the revised Safegrounds radiation risks paper. It describes the HPA view on the health risks from ionising radiation.

The HPA is required to advise government and other stakeholders on the application of ICRP recommendations in the UK. Such advice is based on an objective review of the scientific evidence and its application in the development of standards, informed by direct involvement in epidemiological and biological research as well as substantial experience in setting protection criteria.

This report provides a brief commentary on the basis for current radiation risk estimates, referring to the comprehensive reviews undertaken by the United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR) and to the assessments that form the basis for recommendations issued by the International Commission on Radiological Protection (ICRP).

HPA endorses the approaches adopted by the International Commission on Radiological Protection (ICRP) in developing an internationally agreed system for protection in various situations of exposure. Therefore, HPA is presenting the views of the vast majority of people working on radiological protection throughout the world.