



Legionnaires' Disease Widow will Receive Compensation

The Bexhill-on-Sea Observer reports that a widow whose husband died after contracting legionnaires' disease while receiving medical care at Eastbourne District General Hospital (DGH) will receive compensation.

East Sussex Hospitals NHS Trust admits that Paul Duncan, a leukaemia patient, contracted the disease from a contaminated shower at Eastbourne DGH and has also admitted its breach of duty. However, the Trust and Clare Duncan (Mr Duncan's widow) have been unable to reach agreement on the level of compensation. Mrs Duncan is seeking damages in excess of £125,000.

On 12 April 2007, Mr Duncan, aged 41, was admitted to the hospital's Pevensey Ward for two courses of chemotherapy. He was suffering from acute myeloid leukaemia. However, according to a High Court Writ, Mr Duncan contracted legionnaires' disease after using the ward's showers, which were contaminated with legionella bacteria.

In early June, his condition began to deteriorate, his kidneys failed and he died on 16 June. It is alleged that, if Mr Duncan had not contracted the disease, he would have finished his second course of chemotherapy treatment and could have had a bone marrow transplant. With these treatments, the contention is that he would have had a life expectancy of five years.

Mrs Duncan alleges that the Trust was negligent, and claims that it failed to clean and chlorinate the ward's showerheads adequately in March 2007, failed to allocate the work to a suitable craftsman and failed to install legionella filters, contrary to its own procedures. She also claims, amongst other things, that the Trust failed to operate a proper job-tracking system with job cards and failed to keep a log of the legionella-prevention work undertaken.

A spokesperson for Eastbourne DGH stated that the Trust was currently in negotiation with representatives of the family to bring the matter to a conclusion. Assurances were also given with regard to the instigation of improved control measures to prevent future occurrences of this kind.

Construction Firms Warned about Controlling Risks

Following a prosecution case concerning the death of a construction worker, the HSE has reminded construction firms of the necessity of planning work carefully and taking steps to control risks to the health and safety of those working on construction sites.

The fatality occurred on 1 December 2003. The employee, Michael Broughton was one of a group of workers engaged in pouring concrete to create the floor of an office building. A pump, mounted on a truck, was being used to take fresh concrete from the delivery lorries to the floor of the building. When the pump was restarted, a suspended hose from which the concrete was poured, whipped violently knocking one man off his feet and fatally injuring another.

At Doncaster Crown Court, UCS Civils Ltd (formerly Universal Construction Services Ltd), Mr Broughton's employer, was fined £40,000 and ordered to pay costs amounting to £31,600. At an earlier hearing in the Magistrates' Court, the firm had pleaded guilty to an offence under section 2(1) of the Health and Safety at Work, etc. Act 1974.

Pochin Concrete Pumping Ltd pleaded guilty to an offence under Section 3 of the Health and Safety at Work, etc. Act 1974. The firm was fined £40,000 and ordered to pay £45,000 costs.

HSE Inspector, Rob Cooper, commented after the hearing that the case drew attention to the need to take account of all the potential risks when planning work and put in place measures to control those risks. Simple precautions could have been adopted to ensure that nobody stood close to the flexible delivery hose until the concrete was flowing smoothly.

Construction continues to be one of the most dangerous industries in the UK, with 72 fatalities recorded in 2007/08.



Issue	1
Date:	25/02/09
Page:	2 of 2

HSE Reminds Firms to Protect Employees Working at Height

The Health and Safety Executive (HSE) has issued another warning to firms to take appropriate precautions to protect employees working at height. The warning comes in the wake of a prosecution case in which a self-employed bricklayer suffered serious head injuries after falling 2.7m through a stairwell opening on a new building construction.

At Pontefract Magistrates' Court, Ballenwood Properties Ltd, the main contractor on the site in question, pleaded guilty to breaching regulation 6(3) of the Work at Height Regulations 2005. The company also pleaded guilty to breaching regulation 3(1) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). Ballenwood Properties was fined £3,000 for the first offence, £1,000 for the second and ordered to pay £2,970 costs.

Following the hearing, Health and Safety Inspector, David Welsh, commented that falls from height continue to represent a major hazard, especially in the construction industry. He made the point that many of the construction-related incidents are internal falls from inside a property and frequently occur as a consequence of a failure to address the risks. Where internal falls are concerned, the simplest way of dealing with the risk is to cover openings with boards or place guard rails around them, said Mr Walsh.

In the case outlined above, Ballenwood's failure to report the injury, a legal requirement, was also considered a grave offence.

Directors Taking an Active Role in Health and Safety Management

The manufacturers' organisation EEF has produced a survey detailing the number of company directors who are actively involved in managing health and safety. Their 2008 results show that this number is over 80% and that in the last three years there has been a rise of 40% in the number of company boards who monitor health and safety management as part of their Key Performance Indicators.

Subsequently EEF has urged Government and the Health and Safety Executive (HSE) to resist pressures for further legal duties on company directors as the HSE has given employers until 2010 to demonstrate that the current approach works or face a change in the law.

Head of Health and Safety Policy at EEF, Steve Pointer, said:

"This endorses EEF's view that the best way to promote best practice health and safety is to promote good leadership rather than introducing new statutory duties that would lead to a 'box ticking' mentality.

"This survey shows that active leadership by directors is now very definitely the norm, not the exception. Managers and directors in our member companies are taking their responsibilities seriously and the results clearly demonstrate that further regulation is not required. With the right promotion, encouragement and support, the current approach to improving leadership can have a major impact.

"The law already allows directors or managers to be held to account if their personal actions put someone at risk. Adding specific requirements such as appointment of a single director to be charged with managing health and safety could only be counter-productive. It would send a message that fellow directors can forget all about health and safety, which would be disastrous. Health and safety management is effective when everyone works together."

Overall the survey showed a positive result concerning the enforcing authority with support for the advice given by inspectors. There was only a very small amount (3%) indicating a problem. Approximately 50% of respondents however felt that requirements involve excess bureaucracy and around half said there was concern regarding up front costs.