



## Prosecutions

### Contractor Fined after Scaffold Collapse

A scaffolding contractor from Teesside has been fined after a scaffold collapsed into a public street.

The Health and Safety Executive (HSE) prosecuted William Bedford, trading as B & J Scaffolding, following the incident in Jedburgh Street, Middlesbrough in 2008.

On the evening of 18 January, 85 metres of the scaffold overturned in the wind and collapsed into the street.

The HSE investigation showed that the scaffold was not adequately secured to the houses in Jedburgh Street and was missing elements used to stabilise the structure.

Mr Bedford, whose business is based at Durham Road, Redcar, pleaded guilty to breaching Section 3(1) of the Health and Safety at Work etc Act 1974 when he appeared at Teesside Magistrates' Court. He was fined £4,000 and was ordered to pay costs of £2,500.

After the case, HSE Inspector Natalie Wright said:

"The scaffold had been used as a working platform for at least five days before the incident, by workers on site carrying out work to the house fronts. It could have collapsed at any time, creating a significant risk to workers and members of the public.

"This incident demonstrates how important it is for contractors to follow the requirements for the construction of scaffolds.

"Contractors need to ensure that they meet the relevant standards in their work to erect safe and stable scaffolds, so that they do not expose workers and members of the public to risk."

### 'An Incident Waiting to Happen'

A Telford company has been prosecuted by the Health and Safety Executive after one of its workers lost three fingers while working with machinery.

A female employee, who does not want to be named, had her hand trapped in the incident at I2R Packaging Solutions, while making foil food cartons.

Telford Magistrates' Court heard how on 22 September 2008, the employee was helping another worker remove aluminium foil from a 130-tonne power press, which had become jammed.

Her colleague had opened the protective guards which stops the machine automatically, but had not switched off the pneumatic energy. As the pneumatic system stores some energy within it - even when the power is turned off - it meant part of the machine snapped upwards and injured the female worker's hand. A separate manual process would have been needed to ensure the pneumatic energy had been dissipated before trying to get the blockage out of the machine.

When part of the machine snapped upwards it amputated the worker's index finger, middle finger and the tip of her ring finger on her right hand.



## HEALTH & SAFETY NEWS

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HSE inspector Katharine Walker said:

"The injuries may not have been life threatening, but they were life changing.

"Adequate safety mechanisms, to discharge the pneumatic energy automatically rather than manually, could have prevented this incident from occurring.

"While the machine had some protective guards and safety mechanisms in place, it seems they were not adequate to prevent danger to operatives during processes such as clearing blockages. This was an incident waiting to happen."

The company, based at Stafford Park, Telford, pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc 1974. It was fined £10,000 and ordered to pay £5,677 costs.

### **Worker had Hand Torn Off**

Details of how an employee of Conder Solutions Limited lost his hand while working on a metalworking lathe at the firm's premises were heard at Peterlees Magistrates' Court.

Conder Solutions Limited, of Whitehouse Way, was fined £15,000 and also ordered to pay £2,759 in costs after pleading guilty to a health and safety offence.

During the Health and Safety Executive prosecution the court was told that on 3 June 2009, the 55-year-old employee was polishing a rotating metal shaft on a metalworking lathe with a strip of emery cloth.

Although he was wearing gloves and holding the cloth with both hands, his right hand came into contact with the lathe's rotating shaft and cutting tool, resulting in his hand being ripped off.

Surgeons were able to re-attach the hand but despite undergoing five operations, the worker still has no feeling in the hand and is unable to use it. He was in hospital for more than five weeks and has been unable to return to work.

After the case, HSE Inspector Cain Mitchell, said:

"This employee suffered an extremely painful and possibly life-changing injury because Conder Solutions Limited failed to take measures to prevent access to dangerous parts of the lathe and to ensure a safe system of work was being used.

"This is the third incident of this kind in the North East in the last 12 months. Employers need to ensure that machines are suitable for the task. Emery cloth should only be used on a metalworking lathe if appropriate safeguards are in place for operators, following a suitable and sufficient risk assessment."



### Food Company Fined £10,000

A Lincolnshire-based international frozen vegetable supplier has been fined after a man's finger was amputated when his hand was crushed at work.

The incident occurred at Penguin Food Ltd's site in Boston on 10 February 2009 when the worker tried to straighten some boxes on an automatic palletising machine.

Boston Magistrates' Court heard that although the box loading machine which the man was working on had a perspex guard attached, the employee routinely entered the enclosure while the machinery was running.

While behind the guard, his fingers were caught between a pallet and the conveyor, resulting in his middle finger being amputated from the tip to the first knuckle. He was subsequently off work for six months.

The company was investigated by the Health and Safety Executive and it was found a number of employees had been given interlock parts which effectively overrode the safety systems in place and allowed access to the enclosure.

Penguin Foods UK Ltd, based on Marsh Lane, Riverside Industrial Estate, is part of The Penguin Group that has eight vegetable production sites in Belgium, France and the UK.

It was fined £10,000 and ordered to pay full costs of £3,500 at Boston Magistrates' Court after pleading guilty to breaching section 2(1) of the Health & Safety at Work etc Act 1974.

HSE Inspector Scott Wynne said:

"Penguin is a large international company and it is often assumed companies of this size adhere to health and safety policies at all times.

"The employee regularly gained access to the machinery, defeating the safety device using an interlock mechanism given to him by another member of staff.

"The automatic palletising machine can carry up to a ton of boxes so the employee could easily have suffered more severe injuries. Penguin should have had robust supervision and monitoring that should have identified staff were overriding interlocks and stopped it happening."



### News

#### **Government Criticised Over Employers' Insurance**

The Government has been called upon to come down more strongly on those organisations failing to buy Employers' Liability Insurance for their staff or that buy less than they are required to.

In its response to the Cabinet Office's Review of Health and Safety and the Compensation Culture, the Association of Insurance and Risk Managers (Airmic), describes enforcement of the Employers' Liability (Compulsory Insurance) Act as "woefully inadequate". The same can be said, it adds, of health and safety regulations.

Technical director Paul Hopkin said: "Apart from the obvious moral and legal imperative to protect staff, it is unfair that [some] are placed at a competitive disadvantage because they observe the letter of the law. Firms that save money by taking shortcuts on employee safety are getting away with it because of inadequate enforcement."

With some exceptions, the Employers' Liability (Compulsory Insurance) Act 1969 requires employers to insure their liability to their employees for personal injury, disease or death sustained in the course of their employment in Great Britain. There is currently a penalty of up to £2,500 per day if the employer does not have insurance.

Employers are legally required to insure for at least £5m. The Association of British Insurers (ABI) advises that, in practice, most policies offer £10m minimum cover.

Employers are required to display a certificate of employers' liability insurance at each place of work, although measures were brought into force in October 2008, which meant that certificates no longer had to be displayed as hard copies, or kept for the previously-enforced minimum of 40 years.

The Employers' Liability (Compulsory Insurance) (Amendment) Regulations 2008 now allow employers to display the certificate online, so long as it is readily available to all employees. The Regulations also allow employers to keep the certificate displayed in the workplace if this is easier.

Airmic, which represents risk managers and insurance buyers, including around 75% of FTSE 100 companies, goes on to call for a relaxation or removal of workplace rules that are over-prescriptive, leading to increased costs without improving safety.

Finally, the response calls for a review of the personal injury claims process, which it says has allowed costs to spiral in recent years



## Guidance

### How Many First-Aiders do I Need?

HSE guidance on this issue advises that the findings of a first-aid needs assessment will help to decide how many first-aiders are required. There are no strict rules on exact numbers, and all the relevant circumstances of the particular workplace will need to be considered.

Can legal action be taken against first-aiders?

According to the HSE, it is very unlikely that any action would be taken against a first-aider who was using the first-aid training they have received. However, HSE cannot give any specific advice on this issue as it does not fall within HSE's statutory powers.

It is recommended that legal advice is sought, or advice from an employer's insurance brokers on whether their policies cover first-aiders' liability.

### Guidance for other people to accompany enforcement officers on site

The purpose of this Local Authority Circular, issued by the HSE, is to provide general advice on dealing with the situation of authorising others to accompany an enforcement officer on a visit. It does not cover empowering others to carry out enforcement type duties. The LAC has been revised.

Section 20(2)(c)(i) of the Health and Safety at Work etc Act 1974 stipulates that an inspector may take another person with them on an inspection, for example a person with expert knowledge of the type of workplace being visited. Prior authorisation by the Enforcing Authority should be arranged for the person concerned, otherwise they will not have any right of entry to the premises. This could cause delays during emergency situations.

The person accompanying the enforcement officer has authority but not to undertake any duties of inspection, although this would permit limited assistance (eg when not controlling the inspection activity). There may be occasions when an inspector may wish to have present, persons with special knowledge who may be expected to examine and/or otherwise investigate aspects of an incident or workplace. Examples could be an electrical engineer or a building surveyor. If the work they are likely to perform requires them to use powers described within section 20 of the HSWA, then they should be empowered under section 19 to carry out these tasks, rather than rely on the authorisation to accompany an enforcement officer. The power could be restricted to parts of section 20 as appropriate.

There will also be occasions when the Authority will require help of HSE specialist inspectors, such as engineering and safety specialists or health professionals. In such cases the Authority should consider empowering the HSE inspector with limited powers specific to the task and limited in scope and time.

This circular provides general guidance on this issue and Authorities may wish to seek their own legal advice before making a decision.

An example of a suitable form to issue to people accompanying Enforcement Officers on visits is set out in the appendix.



### MEWPs - Avoiding Injuries

Falls at work cause more people to die than any other cause, according to this HSE safety notice. The use of mobile elevating work platforms/powered access equipment has been a major factor in the reduction in falls accidents. For temporary work at height this kind of equipment is often the safest solution.

However, there are currently under investigation a number of fatal and serious accidents where operators have become trapped between the guardrails or other equipment on the platform and adjacent obstructions. This safety notice aims to publicise the issue and direct users to new guidance which addresses this particular aspect of MEWP use.

As with any other work equipment, the selection and application of MEWPS need to be carefully managed and implemented by competent people. The new guidance deals specifically with preventing entrapment and supplements existing guidance. It has been prepared by contributors with extensive experience of MEWP use and accident investigation and captures that experience to share with others who might not appreciate the dangers.

#### Action required:

Anyone engaged in the supply or use of MEWPS should familiarise themselves with the guidance and act on its recommendations. The guidance is relevant to anyone using MEWPs, not just those in the construction industry. Key areas for attention are as follows:

- effective work planning
- selection of equipment for the specific tasks and environment
- training of managers and operators including on the specific machine to be used
- preparation and practice of detailed procedures to be followed if someone is trapped and needs to be rescued quickly to minimise harm.

HSE inspectors will consider enforcement action where they believe there is a risk of entrapment which is not being managed effectively.

### Best Practice Guidance for MEWPs

The increased use of MEWPs in construction, maintenance and other applications where trapping risks are present has led to accidents in which people on the platform have been trapped between the platform (often referred to as a cage or basket) and objects in the work area. In some cases these accidents involved fatality. Managers must take a lead in identifying when trapping risks are present in the work activities they control. Where trapping risks are identified, extra care is needed and all involved must understand what they need to do to avoid or reduce the risks involved.

Good practice should be encouraged and followed in order to avoid accidents. Task, site and equipment specific risk assessment is the basis of preventing trapping accidents. All involved in the management and operation of MEWPs need to understand how to minimise the risks of someone being trapped in the basket and the importance of having effective rescue procedures should such an entrapment occur.

This new guidance, produced by the Strategic Forum for Construction Plant Safety Group, is set out in two parts. Part 1 is aimed at planners, managers, and trainers. It provides information on hazards, risk assessment, controls and responsibilities. The annexes to Part 1 provide detailed information which can assist in the identification of trapping risks and in the planning and managing of work activities to protect against entrapment accidents.

The second part is aimed at those using and supervising MEWPs and responsible for rescuing anyone trapped on a MEWP platform.



## Reports

### Fatal Injuries Reported to HSE and LAs

This document gives a breakdown of the number of fatal injuries reported to the HSE and local authorities during the first nine months of 2009/10 (1/04/2009 to 31/12/2009). It is noted that, as these are the most up-to-date figures available, some of the cases included are still under investigation. As such, the figures are provisional.

Total fatalities are as follows:

- agriculture: 38
- extractive and Utility supply: 7
- manufacturing: 20
- construction: 36
- services: 91

The figure of 122 fatal injuries to workers at this stage is substantially lower than the average figure for the same stage over the last five years, which is 163. The emerging picture is, therefore, that the figure for 2009/10 as a whole is likely to be similar to, or even less than, the record low that was recorded last year.

These figures cover work-related fatalities that are reportable under RIDDOR (The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995). Some deaths are excluded from these statistics as they are reportable under other legislation. The main exclusions are as follows:

- fatal accidents involving workers travelling on a public highway (a 'road traffic accident'). Such incidents are enforced by the police and reported to the Department for Transport. Those killed whilst commuting (travelling from home to work, and vice versa) are also excluded
- fatal accidents involving workers travelling by air or sea. These incidents are the responsibility of the Air Accident Investigation Branch and Marine Accident Investigation Branch, and reported accordingly
- fatal injuries at work due to 'natural causes', usually heart attacks or strokes, unless brought on by trauma due to the accident
- accidents to members of the armed forces.



### Use of Plasterboard Manual Handling Aids in Construction

Manual handling of plasterboards in order to construct interior building walls and ceilings is a risk factor for musculoskeletal complaints and plasterers have been shown to have one of the highest prevalence rates for musculoskeletal disorders (MSD) in the construction industry. MSD are caused by many factors, including awkward postures (eg bending, stretching, twisting), repetitive movements, using force and manual handling (lifting and carrying) and these activities are recognised as a regular component of plasterers' work. This report investigated the manual handling and work related risk factors for MSD associated with the installation of plasterboard, and evaluated the impact of manual handling aids in terms of risk reduction and the time taken to install plasterboard.

The report notes that there is clear potential for risk of musculoskeletal injury in moving and handling panel products such as plasterboard. Taking sensible precautions may reduce these risks. It is impossible to avoid all manual-handling operations in the construction industry. This is particularly relevant to the installation of plasterboard, which relies heavily on manual handling activities. No single universal solution exists to improve risk control, but a number of different strategies may usefully be implemented to suit differing scenarios. The report makes several recommendations covering measures that employers and workers should consider controlling the risk of musculoskeletal injury when handling and installing plasterboard. The recommendations are centered on the following issues:

- provide mechanical assistance
- provide safe systems of work
- change the way dry lining operatives are paid
- reduce dimensions of board
- reduce weight of loads
- label loads
- team handling of plasterboard
- provide training in manual handling for all workers
- increase task variety
- improve communication between stakeholders.