

Prosecutions

£100,000 Fine after Worker Fatality in Belgravia

A foreign construction worker was buried alive while working on a property in London's Belgravia.

Arlindo Visentin, 58, from Brazil, was helping three other workers build a basement at the private property when he was crushed by a wall of gravel and clay weighing between three and five tonnes that collapsed.

Contractor Nadeem Aftab, Mr Visentin's employer, was fined in connection with the tragic incident that happened during the construction of a basement at a house in Wilton Row, Westminster.

The Health and Safety Executive (HSE) prosecuted Mr Aftab of Rosebury Road, Fulham, who pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974. He was fined £100,000 and ordered to pay costs of £61,590.

City of London Magistrates' Court heard that on 13 June 2007 Mr Visentin was working in the basement area when the collapse took place, completely burying him with clay and gravel, causing fatal crush injuries.

The HSE investigation found the temporary works required to support the earth during the underpinning operation were not adequately planned.

The earth that remained following the underpinning of the walls was not properly supported, and at the time of the incident no measures were in place to prevent falls into the excavation.

Mr Aftab failed to make sure the workers on site were trained, qualified and competent to carry out underpinning.

Following the hearing, HSE Inspector, Lisa Chappell said:

"Mr Visentin spoke very little English and did not share a common language with any of the other workers or with Mr Aftab.

"This incident highlights the need to have effective worker consultation and communication with all employees to ensure they understand the control measures that should be in place to prevent harm.

"Basement conversions involving underpinning are significant engineering projects and should be planned and managed by competent people. As a part of this, a competent temporary works engineer should design an appropriate sequence of works, and the work should be actively managed by a person who had the necessary knowledge, training and experience to ensure it is carried out safely."

Care Home Fined £70k

A Llangollen nursing home has been fined following the suffocation of an elderly woman after she became trapped between her mattress and bed rails intended to stop her falling.

Elizabeth Roberts, 89, was found suffocated in her room at the Headlands Nursing Home on 30 August 2008. Her upper body had slid down to the floor between the bed mattresses and bed rails where she had become trapped.

Mold Crown Court heard Mrs Roberts had suffered from a previous entrapment incident three weeks before but no alternative bedding arrangements had been made.

A Health and Safety Executive (HSE) investigation revealed care staff at the home engaged bedside rails after Mrs Roberts repeatedly fell from her bed, however employees had not been provided with up-to-date training on the safe use of bed rails, in particular the risk of entrapment created.

HSE found the home also failed to complete a suitable and sufficient risk assessment on the use of bed rails for Mrs Roberts, which should have identified that they may have been unsuitable in her case. There was no company policy on the safe use of bed rails and no system for routine inspection, monitoring and maintenance.

Deevale Homecare and Services Ltd of Grosvenor Road, Wrexham, who own and operate the Headlands Nursing Home in Llangollen, pleaded guilty to breaching Section 3(1) of the Health & Safety at Work etc. Act 1974, and Regulation 3 (1) Management of Health & Safety at Work Regulations 1999. They were sentenced at Mold Crown Court and fined £70,000, with £21,818.56 costs.

HSE inspector Sarah Baldwin-Jones said:

"This is a terrible incident and one that could have been easily avoided.

"It is essential that home owners and care staff consider whether bed rails are the most appropriate method of preventing a patient falling from bed.

"There are many alternative options such as the use of low profile beds, which should be considered. When using bed rails, homes should take adequate steps to assess the potential risks created. This should consider the bed occupant as well as the set up of the bedding arrangements.

"To assist home owners, free guidance on the safe use of bed rails has been made widely available for a number of years. This home could have taken the simple steps provided in the guidance to train care staff and implement a safe system of routine inspection and maintenance at their home. Had this occurred at the Headland Nursing Home, Mrs Roberts' death could have been prevented."



Inadequate Planning' leads to Fine

A builder from Kent has been fined after an employee fell more than three metres through a garage roof.

Anthony Murphy, 53, fell through the fragile roof when helping contractor Hugh Pattison remove vegetation from the roof of a block of garages in Knotts Yard, Whitstable, Kent.

Canterbury Magistrates' Court heard Mr Murphy suffered two broken ribs and a fractured sternum in the fall. He suffered life-threatening internal injuries, and several bones in his back were broken so badly they could not be repaired with plates.

The Health and Safety Executive (HSE) prosecuted Hugh Pattison, 44, for inadequate planning which led to the incident on the 17 February 2010.

The HSE investigation found that there was no edge protection to prevent either of the workers falling and the platforms they were working on were inadequate for the job in hand.

Hugh Pattison of Ripley Road, Willesborough, Ashford, Kent pleaded guilty to breaching section 2(1) of the Health and Safety at Work etc Act 1974. He was fined £800 and ordered to pay costs of £200.

After the hearing, HSE Inspector Kevin Golding said:

"Mr Murphy was extremely lucky to survive. Falls from height are the biggest killer at work and roofers account for almost a quarter of these deaths. Falls through fragile materials, such as cement roofs, account for more of these deaths than any other single cause.

"This high-hazard work should be properly planned and undertaken by trained and competent staff, with appropriate fall prevention equipment."

News

H&S Review – Call for Evidence

The Löfstedt Review into health and safety legislation, announced by the Minister for Employment in March, has issued a call for evidence, inviting views from all interested parties on the scope for reducing the burden of health and safety regulation on UK businesses whilst maintaining health and safety outcomes.

As set out in the finalised Terms of Reference, the review will consider the opportunity for combining, simplifying or reducing the approximately 200 statutory instruments that are owned by the Health and Safety Executive, by learning lessons from health and safety regimes in other countries, and considering the extent to which regulations:

- have impacted on positive health and safety outcomes and businesses
- have led to unreasonable outcomes, or inappropriate litigation and compensation
- have unnecessarily enhanced the requirements of an EU directive.

Chris Grayling said:

"Getting the regulation of health and safety right is important to everyone. The Health and Safety at Work etc Act remains an effective framework. However we need to put common sense back into health and safety and ease the burdens on business, and I look forward to Professor Löfstedt's findings."

Professor Ragnar Löfstedt said:

"I hope to hear from as many people with an interest in health and safety regulation as possible. I want the review to be informed by concrete examples and evidence from a range of stakeholders including employer and employee organisations, Government and professional health and safety bodies, practitioners and academics. Getting their expert advice will ensure the findings of the review are robust and I hope they will take the opportunity to feed in their views."

The review is part of a package of changes to Britain's health and safety system to support the Government's growth agenda and cut red tape.



Health & Safety 'a Burden'

Nearly half (47%) of businesses claim regulation around health and safety issues is a burden on their business, according to a new British Chambers of Commerce (BCC) survey of nearly 6,000 employers.

In addition, a fifth of sole traders identified health and safety regulation as a barrier to taking on their first employee.

In its report, the BCC recommends that regulation should be tailored to the risk level of the workplace and that low-risk businesses should not be treated in the same manner as high-risk firms.

It also recommends streamlining and simplifying legislation to reduce costs and confusion, stating that "the sheer number of laws causes uncertainty and means health and safety is in danger of being a tick-box exercise."

In addition, it calls on the Government to review the UK implementation of EU Directives.

Commenting on the report, David Frost, Director General of the British Chambers of Commerce, said:

"Health and safety regulation in the workplace is important, but it must be made more industry-specific. The UK has a good record on health and safety and preventing accidents at work. However, employers are dealing with a multitude of regulations that do not necessarily add to the safety of workers. The Government's Red Tape Challenge lists 131 separate health and safety regulations. The sheer volume of rules causes confusion for employers, particularly amongst smaller firms without the resource to tackle this.

"Good health and safety legislation is crucial in high-risk environments and must protect employees from genuinely dangerous hazards in the workplace. But time and time again, we hear of unnecessary and unreasonable examples of health and safety. For example, homeworkers are treated in the same way as those working on site, with the employer forced to conduct ever-more elaborate and costly assessments of the employee's home environment.

"Where regulation is irrelevant or misapplied, we are asking the Government to consolidate and simplify. We welcome the Government's Löfstedt's review into health and safety, and hope this will deliver for business. Only a straightforward and more proportionate system of health and safety regulation will make it easier for employers to comply, and allow them to focus on growing their businesses, driving employment and contributing to economic growth."

Guidance

Managing risks to drivers in road transport: Good practice cases

EU-OSHA has published a report of case studies in managing risks to road transport drivers, and a factsheet summarising the cases. The cases feature a variety of initiatives and interventions to protect road transport drivers.

Key conclusions from the cases include:

- drivers are frequently self-employed, very experienced and used to working independently. This suggests, among other things:
- ensuring that approaches are practical but not patronising
- using places drivers frequent – motorway stop areas, etc
- ensuring that advice and solutions are based on drivers' experiences, for example, by: involving drivers in risk assessment and developing solutions; using drivers as advocates, mentors, etc
- customers, clients and stakeholders should be involved in solutions to manage risks: the supply chain – suppliers, premises where deliveries are made, etc; passengers and schoolchildren; etc
- large organisations are in a position to set OSH standards for their delivery contractors. This in turn can stimulate these SMEs to adopt the same standards with their other clients
- when new technology is introduced into cabs, it can also be used for OSH purposes, for example to keep drivers informed and improve delivery schedules
- OSH solutions may require more time to carry out tasks and therefore: this needs to be recognised in work organisation and work scheduling; clients also need to be made aware of this
- training, for example defensive driving techniques, must be part of an organisational system to prevent risks and with clear management commitment.

Communicating OSH Messages to the Road Transport Sector

This factsheet, issued by the European Agency for Safety and Health at Work, sets out findings from a report containing examples of campaigns and initiatives to improve occupational safety and health (OSH) in the road transport sector.

Effective means of communication are essential in ensuring that drivers and their employers are fully aware of the dangers associated with road transport and have a good understanding of what can be done to improve safety. However, for a number of reasons, disseminating information within the road transport sector is particularly challenging. The majority of companies are small enterprises employing fewer than 10 workers and many drivers are self-employed. Drivers often work away from a fixed base, and many have long experience and are used to very independent ways of working.

This independence coupled with the highly competitive nature of the road transport sector can also make drivers and their employers reluctant to implement new ways of working. The factsheet points out that drivers have a tendency to trust their own experience most, and are reluctant to accept OSH advice from outside bodies, even if they are aware of it. And there appears to be a lack of communication on OSH between drivers and their employers and managers or, in the case of owner-drivers, the companies that contract them.

Those working in road transport are more likely to take notice of practical and visual information, provided they see it as relevant.

The examples featured in the report used a variety of approaches:

- forty-four cases used an individual approach, with the aim of modifying knowledge or attitudes. This approach requires relatively few resources and can be a cost-effective way of reaching a large population
- twelve cases used a collective approach, with the aim of making structural and/or cultural changes. This approach has often proved to offer significant OSH improvements
- four cases used a concerted approach which aimed to modify both knowledge and attitude whilst also striving to initiate structural and cultural change. This approach requires more resources, but is considered to have the greatest effect.

From the examples, a variety of success factors can be seen and suggestions made, which can be divided into a number of key issues:

- using an evidence-based, risk management-based and practical approach
- giving special attention to reaching the target audience
- engagement and partnership
- tailoring actions to the audience
- using a variety of measures and media.

In conclusion, the factsheet highlights that engagement and partnership should go beyond drivers. Targets may need to include employers, managers, vehicle operators, loading staff, and both receivers and dispatchers of goods. Partnerships may include OSH organisations, road transport sector stakeholders including social partners, and road safety organisations. Some activities may be targeted generally at drivers' families and the general public.

To improve campaigning in this sector there is a need for:

- effective partnerships between those involved in promoting road safety, those involved in promoting OSH and stakeholders from the sector
- continued exchange and sharing of existing experiences



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- further investigation to explore the problems and success factors in promoting OSH among both employers and drivers.
- control and working hours.

Reports

Lead Poisoning – Latest Figures

The latest statistics for blood lead poisoning, covering 2009/10, have been issued by the HSE.

Lead poisoning is a medical condition caused by excessive exposure to, and absorption of, lead. Symptoms of lead poisoning are varied and can occur in other medical conditions. Exposure to lead can lead to a range of medical problems, which is why a regime of surveillance of workers in lead industries is undertaken in Great Britain. The vast majority of individuals with blood-lead levels above the suspension level and who are suspended from lead work do not have lead poisoning, but they are removed from further exposure to lead to prevent them from developing the condition.

The coverage of these statistics is limited by the extent of medical surveillance that occurs in practice, and this may not be completely aligned with what is required under the CLAW regulations. Some employers may keep workers under surveillance on a precautionary basis where exposure is not likely to be significant, whereas others may fail to implement surveillance where it is in fact required.

This report covers blood-lead measurements taken over the period from 1 April 2009 to 31 March 2010. Statistics include:

- the total number of workers under medical surveillance rose to 7,162 in 2009/10 from 6,831 in 2008/09. Of these 7,162 persons, 6,916 (96.6%) were male and 246 (3.4%) were female
- there were eight young people (under 18 years) under surveillance in 2009/10; all of whom were male
- the three industry sectors with the highest number of males working with lead were the smelting, refining, alloying and casting industry (19.1%), the lead battery industry (18.2%), and the scrap industry (7.4%)
- three industry sectors accounted for half of the females working with lead; these were the smelting, refining, alloying and casting industry (17.9%), the glass making industry (17.1%) and the lead battery industry (15.9%)
- the proportion of male workers under surveillance with blood-lead measurements at or above the 60µg/100ml suspension level fell slightly from around 0.8% in 2008/09 to 0.7% in 2009/10. There were 164 (2.4%) individuals with a blood-lead measurement above the recommended action level of 50µg/100ml
- since 2008/09 the proportion of female workers with blood-lead levels at or above the 30µg/100ml suspension level has fallen from 2.2% to 1.2% of the female workers under surveillance. There were seven females (2.8%) who were recorded to have a blood-lead measurement above the 25µg/100ml recommended action level
- in 2009/10, a total of 51 males including one young male were suspended from working with lead due to excess blood-lead, the majority of whom (72.6%) were employed in the scrap industry. This compares to 16 males and one female suspended in 2008/09.

Good Control Practice for Workers' Exposure to Gases in Landfill

In co-operation with the waste industry this work collected information on types of task, pattern of work and potential for exposure of workers to landfill gas. Six landfill sites were visited to monitor the activities carried out by a number of different contractors, and to provide measurement data for both personal exposure, and of the hazard source, for vinyl chloride (VCM), hydrogen sulphide (H₂S) and benzene.

The aim of the work was to establish if there was a risk of personal exposure to these substances at levels that may cause concern. The results of the measurements, combined with direct observations, will form the basis for a new guidance document for work in this industry. This guidance will describe the adequate control of risks to health, as defined under the Control of Substances Hazardous to Health Regulations 2002 (COSHH), from trace components in landfill gas. It will apply to all harmful substances in landfill gas, such as those listed by the Environment Agency document LFTGN 04 Guidance for monitoring trace components in landfill gas.

The study concludes that measurements for benzene, hydrogen sulphide and vinyl chloride made during bore hole drilling were all at lower concentrations than would be of cause for concern. Dilution factors calculated based on the highest personal exposure for each contaminant compared to the associated bore hole concentrations were at least 1:320 for all three contaminants. This is supported by the established knowledge that wells generally emit methane at about 50%, and if workers use personal alarmed gas monitors set at a trigger level of 10% of the LEL (i.e. 0.5% methane) and these do not alarm, this indicates more than a 100-fold dilution between the well and the operative's breathing zone. If the LEL alarm was triggered there is a potential risk not only from methane but from other trace gases. Hence, the steps taken to reduce the methane risk would be applicable to the trace gases.

Health & Safety in Public Sector Construction Procurement - Follow Up

This is the final report of a study concerned with examining health and safety issues in public sector construction procurement commissioned by the HSE. The broad aim of this research is to build on earlier work undertaken to provide a sound evidence base on which HSE can design targeted interventions to improve construction health and safety through improved public sector procurement practices.

The main findings of the research suggest that there are areas where the public client performed reasonably well in terms of discharging their health and safety obligations on the projects in question.

The conclusions suggest that while some public sector clients perform reasonably well in terms of meeting their health and safety obligations during the procurement of construction, there remains more that could be done.

In terms of recommendations, many of the deficiencies highlighted in the research stem from a lack of knowledge of OGC guidance. The evidence of the research suggests that more be done to embed current health and safety guidance across the public client. Following the results of this research and previous work it appears that there is a distinct lack of awareness regarding the OGC publications (AE-10 and Common Minimum Standards) amongst the public clients that were the focus of this research.

A review of accidents and Injures to Road Transport Drivers

This review, published by the European Agency for Safety and Health at Work, presents reports of work-related road transport accidents, near misses, and other effects relating to ill health that give details concerning the causes and effects of the accidents. The main focus of the report is on road transport activities that take place on the public highway; however light deliveries are included, as well as buses and taxis. The overall aim is to present 'lessons' suitable for the non-OSH expert. The emphasis is on accident and injury resulting from occupational risks in the road transport sector that should have been prevented or controlled, not road accidents of a general nature.

The report does not include transport activities that take place off public highways on areas such as construction sites, farms, warehouses (forklift trucks) or airports, but accidents caused by uncoupling and coupling as well as loading and unloading are included in the report.

The emphasis of the report is on accident and injury resulting from occupational risks in the transport sector that should have been prevented or controlled, not road accidents of a general nature.

The report is set out into three parts:

- occupational transport accidents on the road
- accidents in cargo and vehicle handling (Occupational transport accidents on site)
- occupational transport accidents and psychological factors.

The report advises that, when accidents happen, it is important that employers learn as much from them as possible. As part of the risk assessment to define a prevention strategy, all occupational road traffic accidents which have occurred in the course of the past years should be analysed. Such an analysis should include looking at material damage, physical injuries, preventive measures implemented and any direct or indirect costs.