



Prosecutions

Council Fined following Toddler Death

Camden Council was sentenced last Friday (4 February 2011) after the death of a toddler who was killed when sections of a boundary wall fell onto him.

Two-year-old Saurav Ghai was walking along Southampton Road in Gospel Oak with his childminder on 18 January 2007 when the incident happened.

During the Health and Safety Executive (HSE) prosecution, Southwark Crown Court heard how the pair were walking in high winds when a section of the boundary wall from the Wendling Estate collapsed, falling onto them.

They were taken to the Royal Free hospital, but Saurav died shortly after. His childminder suffered injuries.

Camden Council pleaded guilty at an earlier hearing after being charged with breaching section 3(1) of the Health and Safety at Work etc Act 1974. It is responsible for maintaining the wall that collapsed.

Southwark Crown Court fined the council £72,000 and ordered it to pay costs of £65,000.

After the sentencing, the child's father Mr Vinay Ghai said:

"We are grateful to the HSE for their efforts and persistence when dealing with the Council, for keeping us involved at different stages of the investigation and being understanding of our frustration at many times during this period.

"Without HSE's involvement we would never have found out the proper facts that led to Saurav's death.

"It has been four years since our son was killed and we hope his short life will at the very least highlight the importance of the care required to make our public places safer."

HSE Inspector Michael La Rose said:

"Saurav should have been able to walk down the street without his life being put at risk, tragically this wasn't the case.

"His parents are now facing life without their son because this council simply failed to maintain a wall which was in a poor condition.

"This tragic incident should serve as a reminder to all organisations to keep their building stock safe, including boundary walls."

Company Failed to Protect Staff - £80K Fine

A Cardiff-based steel company has been fined after a worker sustained serious burns while carrying out electrical maintenance work at its city centre plant.

Henry Truskowski, 51, an electrician from Pontypool, was working alone when he came in to contact with exposed, live electrical conductors and suffered a 33,000 volt shock.

Mr Truskowski was cleaning the conductors and circuit breaker units in a control room at Celsa's Castle Works plant on 31 July 2008.

Cardiff Crown Court heard that normally, when carrying out maintenance, the room would be securely isolated to prevent the re-energising of the conductors.



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However a Health and Safety Executive (HSE) investigation found on this occasion, that had not happened and as a result, when Mr Truzkowski touched the conductors, he received the massive electric shock.

He was hospitalised for several weeks and is yet to return to work.

HSE found Mr Truzkowski's employers, Celsa Manufacturing (UK) Ltd. had failed to ensure the necessary precautions had been taken to prevent employees coming in to contact with the electrical conductors.

Celsa Manufacturing (UK) Ltd, of Castle Works, East Moors Road, Cardiff pleaded guilty to failing to properly safeguard high voltage electrical conductors under Section 2(1) of the Health & Safety at Work Act 1974. Today the company was fined £80,000 and ordered to pay full costs.

HSE inspector Steve Curry said:

"Had Celsa Manufacturing (UK) ensured correct and safe working practices were in operation, the serious injuries Mr Truzkowski suffered may have been avoided.

"This incident need not have occurred, and must serve as a notice to other employers of the need to control risks from high voltage electrical equipment."

Businessman Prosecuted Following Ladder Fall

A Lancashire businessman has been sentenced after one of his employees broke his back when he fell off a ladder.

The Health and Safety Executive (HSE) prosecuted Michael Wilson following the incident at Roadferry Transport Yard on Carr Lane in Farington, Leyland, on 3 March 2010.

South Ribble Magistrates' Court in Leyland heard that the man, who has asked not to be named, had climbed up a ladder at the commercial vehicle garage to reach the release mechanism for a lorry cab.

The employee fell to the ground when the ladder slipped, causing him to break a vertebrae in his spine. He is still unable to return to work, nearly a year after the incident.

The HSE investigation found the ladder had missing feet at both ends, the bottom rung was damaged and it appeared to have been cut off at the top.

Michael Wilson, trading as M Wilson Commercials, admitted breaching Regulation 5(1) of the Provision and Use of Work Equipment Regulations 1998 by failing to make sure the ladder was well maintained. He was fined £4,000 and ordered to pay prosecution costs of £2,000 on 2 February 2011.

Matt Lea, the investigating inspector at HSE, said:

"One of Mr Wilson's employees was badly injured because he was given an unsafe ladder to use. It should have been checked in advance to make sure it was suitable.

"The employee had not received any training on working at height or with ladders, despite regularly needing to do it as part of his job. He therefore simply used the nearest available ladder.

"Sadly, this worker is just one of hundreds of people who are injured every year as a result of falling from ladders. Falling a short distance can still result in someone being seriously injured."



Marquee Firm Fined after Collapse Incident

A Birmingham company has been fined £15,000 for failing to ensure the safety of workers and members of the public at a Coventry film premiere.

Crest Marquees Ltd, of Small Heath, was charged with five counts of breaching health and safety legislation.

Coventry Council said two employees of the marquee company were injured when a marquee collapsed partially during its erection in November 2009.

The company pleaded guilty at Coventry Magistrates' Court.

A council spokesman said on the day of the film preview officers from the city council's environmental health team discovered the marquee had been incorrectly erected following the collapse.

He said this left it unsafe and liable to collapsing again with the party guests and film stars inside.

The company was fined £9,015 for using insufficient scissor braces on a marquee and £6,000 for erecting a temporary marquee in an unsafe manner.

Both offences were breaches of the Health and Safety at Work etc. Act 1974.

There was no fine for three further health and safety breaches relating to the marquee.

Matthew Faizey, the company's managing director, said in a statement: "As a small family business, we were completely devastated by the accident."

But he added many 'positive things' had come out of it, including better training, more rigorous safety checks and an overall focus on improved standards.

Councillor Phil Townshend, cabinet member for corporate and neighbourhood services said: "Companies, no matter how big or small, must ensure that anything they do will not risk the safety of their employees or the public.

"There is no excuse for not properly training and supervising staff to perform their duties effectively, and ensuring all equipment is safe to use. Thankfully, there was no fatality."



£200,000 Fine for Recycling Company

A recycling company has been fined £200,000 after a machine overturned and the loading bucket hit a man at a site in Minster, Kent. The Health and Safety Executive (HSE) prosecuted Ling Metals Ltd of Parham Road, Canterbury, Kent for breaching health and safety law.

Canterbury Crown Court heard that on 19 March 2007, Darren Baker, 35, of Thanington, was helping to lay a new horseriding surface of crumbled rubber at Brambles Stables, Watchester Lane, Minster, Ramsgate.

A colleague was driving a telescopic materials handler - a forklift truck with an extendable arm or boom - commonly referred to as a telehandler. The vehicle was fitted with a loading bucket containing the rubber and it had extended its boom more than six metres. It was resting on its wheels and the hydraulic stabilisers fitted at the front of the machine were not being used.

Mr Baker walked across the path of the boom just as the telehandler reached its balance point and tipped forward. The bucket hit him on the head and forced him to the ground. The operator managed to bring the vehicle upright by lowering the front stabilisers. Mr Baker died in hospital two days later from multiple injuries.

The telehandler was fitted with a 'Safe Load Indicator' device. These devices help operators to stay within safe limits by using a series of lights and an alarm. The Safe Load Indicator should be calibrated so that when the alarm goes off there is still sufficient capacity to prevent an overturn. The HSE investigation found that the Safe Load Indicator was not correctly calibrated and was unusable at the time.

In addition, the machine's previous safety certificate (called a Certificate of Thorough Examination) had expired prior to the incident. Although an engineer had visited on two separate occasions to inspect and repair the telehandler they were unable to complete this due to the poor condition of the machine.

The operator had not been told how much the bucket weighed when it was empty or full, or how heavy a load of crumbled rubber was. Lastly, the operator lacked understanding of the machine instructions, which showed how much it could lift and to what maximum distance the boom could be extended.

HSE Inspector John Underwood said:

"I would like to remind owners and operators of machines fitted with older style Safe Load Indicators that these need checking and recalibrating on a regular basis as some older machines do not tell the operator when they have decalibrated.

"It is vital that the owner and operator have a robust procedure to ensure workers know how to correctly use the machine; how to recognise when it may be going out of calibration and what to do about it. Each machine should be checked by plant fitters and maintained in line with the manufacturer's recommendations.

"This was a wholly avoidable incident which led to unnecessary loss of life. I hope this fine will be an example to those involved in the use of telehandlers that machine maintenance is critical to enable safe operation."

Ling Metals Ltd pleaded guilty at a previous hearing on 30 November at Canterbury Magistrates' Court. The company was sentenced at Canterbury Crown Court, to breaching section 2(1) and 3(1) of the Health and Safety at Work etc Act 1974 and regulations 7(c) and 10(3) of the Lifting Operations and Lifting Appliances Regulations 1998. It was fined £200,000 and ordered to pay £11,384.11 in costs.



News

HSE Prosecutions – December 2010

These HSE prosecutions relate to maintenance throughout Great Britain during December 2010. The information also covers HSE enforcement Notices served on maintenance activities in one of the English Regions, Scotland or Wales.

Great Britain

In December 2010, 34 companies or individuals were found guilty and fined as a result of being prosecuted by the HSE. Three of these prosecutions related to maintenance work:

A subcontractor fell more than five metres from a ladder after suffering an electric shock when he made contact with a live three-phase 415v conductor that was the main power channel to the overhead crane that he had been about to repair. The company had not marked it or isolated it prior to the subcontractor starting his work.

An agency worker died after being struck by the moving parts of a cut and crease machine that he was maintaining. The machine was started by another worker whilst the agency worker was inside the machine working on the roller bearings.

A worker received serious injuries when he became entangled in a conveyor system at the exit from a trim saw. He had been attempting to free jammed timbers from the conveyor when it moved unexpectedly.

Notices in Scotland in December 2010

In December 2010, 24 enforcement Notices were served on 20 companies or individuals in Scotland. One of these related to the management of contractors.

Vehicle Testing – Changes to the European Union Directive

From 1 January 2012, there will be a number of changes to the vehicle annual tests as result of amendments to the European Union (EU) Directive that governs annual testing.

In order to harmonise periodic testing and inspection standards within the EU, the previous 1996/96/EC Directive will be superseded by a combination of 2009/40/EC and 2010/48/EU.

There will be new vehicle test items and some changes to reasons for rejection or failure. Examples include:

- Light Goods Vehicles (LGVs) will see electronic aids such as electronic stability control, secondary restraint systems, wiring and LPG included in the test
- the Heavy Goods Vehicles (HGVs) test will include number plates and a change to brake calculations by evaluating efficiency relative to Maximum Authorised Mass rather than Design Gross Weight
- modern cars will see a rise in the minimum efficiency for brakes although this will not be until 2013.

To meet the deadline, work has commenced on the implications of the changes. Final agreement of what changes are required is currently being considered by the Department for Transport (DfT). Once these are known they will be communicated to the trade and public.



Guidance

Provision of Welfare Facilities During Construction Work

This information sheet from the HSE is for dutyholders involved in construction work. It replaces previous guidance contained in 'Provision of welfare facilities at transient construction sites' and in 'Provision of welfare facilities at fixed construction sites'. It gives guidance on the minimum welfare facilities that must be provided or made available to workers on construction sites.

Welfare facilities include things like adequate toilet and washing facilities, a place to warm up and eat their food and somewhere to store clothing. However, these basic requirements are often neglected. A cold water tap and chemical toilet on their own are not adequate facilities. Good facilities can positively benefit health and well-being and can help to prevent dermatitis.

General duties (Construction (Design and Management) Regulations 2007)

Clients

If you are a client (but not a domestic client, that is you or your family live in the building under construction) then you must ensure that your contractors have arrangements to provide adequate welfare facilities for construction workers. This does not mean that you have to provide the facilities yourself. If the work is notifiable (that is lasts more than 30 days or will involve more than 500 person days of work) then you must ensure that construction work (including demolition) does not start until suitable welfare facilities are in place.

CDM coordinators

You should give suitable and sufficient advice to the client on the measures needed to ensure that suitable welfare is provided during the construction phase.

Principal contractors

You should make sure that suitable welfare facilities are provided from the start and are maintained throughout the construction phase.

Contractors (including the self-employed)

In all cases you should ensure that there are adequate welfare facilities for workers under your control.

Planning is also an important issue, and the information sheet covers this extensively with the consideration of areas including heating, water and toilets.



Risk Management of Carbon Nanotubes

This HSE information sheet, which has been revised, provides occupational health and safety guidance relating to the manufacture and manipulation of Carbon Nanotubes (CNTs).

CNTs are molecular scale manufactured 3 dimensional forms of carbon, falling into two general groups:

- single walled (SWCNTs)
- multiwalled (MWCNTs).

Occupational exposure to CNTs can occur:

- during manufacture
- through incorporation in other materials, eg. polymer composites, medical applications and electronics
- generating nanoparticles in non-enclosed systems
- during research into their properties and uses
- cleaning of dust collection systems used to capture nanoparticles
- as a result of incorrect disposal
- as a result of accidental spillage.

Emerging data indicates that when CNTs are breathed in they can cause lung inflammation and fibrosis. The type of CNT, its physical form and presence of impurities and surface modifications may influence the severity of the response but at present there is not enough information to identify which factors are of greatest concern. It is also not clear if inhaled CNT have a role in the development of adverse health effects at other sites in the body. There is an increasing body of evidence to suggest that CNTs and other nanomaterials with a long, thin and straight shape (referred to as high aspect ratio nanomaterials or HARN) may be particularly hazardous. However, there are insufficient data to confirm the health consequences of long-term repeated exposure.

There is some evidence to suggest that CNTs may be able to provoke inflammatory reactions in the skin but more information is required to properly understand the conditions of exposure that are required to produce such effects.

Legal duty

The occupational use of nanomaterials is regulated under the Control of Substances Hazardous to Health Regulations (COSHH) 2002 (as amended).

The principle of risk assessment is embedded in COSHH and applies even though all the necessary information on nanomaterials is not available.

Since there is uncertainty about the risks of being exposed to CNTs, the regulatory and safe response is to take a precautionary approach. The toxicity of CNTs has not yet been fully investigated. However it is clear that Safety Data Sheets for CNTs that are based on conventional graphite or graphene will NOT provide suitable adequate information to assess the risk from CNTs.

Furthermore as measuring potential airborne exposure levels of CNTs is not a simple task, it is therefore difficult to carry out a rigorous COSHH risk assessment. Having said this it is important that an assessment is done for all work involving CNTs and suitable and sufficient risk management measures put in place.

It is important that everyone potentially exposed to CNTs receives a high standard of information, instruction and training, particularly on controlling exposure and maintaining that control.



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Reports

Workplace Violence and Harassment: a European Picture

This report, issued by the European Agency for Safety and Health at Work (EU-OSHA), aims to:

- scrutinise differences in EU Member States in terms of the level of occurrence of different forms of violence and harassment at work (key statistics from international and national sources), as well as examples of the use of preventive measures
- review the methodology and data sources used in different countries to assess the risk, prevalence and consequences of both workplace violence and harassment
- examine cultural differences – definitions and norms – related to both violence and harassment at work.

Violence, bullying and harassment are becoming increasingly common features of European workplaces, according to the report. Yet the response from organisations and national governments is widely felt to be inadequate.

Third party violence and harassment affects between 5% to 20% of European workers, depending on the country, sector, and methodology employed. The report includes international statistics collected by the European Risk Observatory, part of EU-OSHA. Its recent pan-European workplace survey ESENER shows that 40% of European managers are concerned by workplace violence and harassment, but only around 25% have implemented procedures to deal with it - in many EU countries not more than 10%. The problem is even more acute in health and social work and in education with more than 50% of managers identifying it as a health and safety problem.

The report also reveals that in many European countries there is still not enough recognition of workplace violence, with few specific initiatives dealing with the issue. At national level and among individual organisations there is a need to raise awareness, and put in place policies and procedures to tackle and prevent violence and harassment at work.



Decommissioning of Offshore Renewable Energy Installations – Industry Guidance Notes

The Energy Act 2004 (the Act) introduces the requirement for a decommissioning scheme for offshore wind and marine energy installations. Under the Act the Secretary of State may require the person responsible for them to submit (and carry out) a decommissioning programme for them.

To assist operators in this task the Scottish Government has developed and published guidance for industry to outline their legal obligations under the scheme. The guidance covers the following matters:

- scope of the decommissioning scheme – covering the geographical scope of the scheme, and detailing which categories the scheme covers
- the actual process of the decommissioning programme – how to submit, get approval for, and how installations' programmes are reviewed and modified under the scheme of the Act
- standards for decommissioning – this covers the general requirement to remove the installations and lines and any exceptions to this requirement. Also in this chapter are details on how the installations have to be removed, waste management issues, notification and the marking of any remains, and the monitoring, maintenance and management of the site once decommissioning is complete
- financial security – the importance of financial security and the forms of financial security which are acceptable
- residual liability – covers matters relating to the ongoing liability of the owners even after decommissioning is complete
- industry cooperation and collaboration – this highlights how invaluable industry cooperation and collaboration is at the decommissioning stage.

COSHH Essentials – Evaluation of Online Tool

The Control of Substances Hazardous to Health (COSHH) Essentials model was evaluated using full-shift exposure measurements of five chemical components in a mixture – acetone, ethylbenzene, methyl ethyl ketone, toluene, and xylenes. This took place at a medium-sized plant producing paint materials. The study is detailed in the journal *Annals of Occupational Hygiene*.

Two tasks, batch-making and bucket-washing, were examined. Varying levels of control were already established in both tasks and the average exposures of individual chemicals were considerably lower than the regulatory and advisory 8-h standards. The average exposure fractions using the additive mixture formula were also less than unity (batch-making: 0.25, bucket-washing: 0.56) indicating the mixture of chemicals did not exceed the combined occupational exposure limit (OEL). The paper version of the COSHH Essentials model was used to calculate a predicted exposure range (PER) for each chemical according to different levels of control. The study found that the estimated PERs of the tested chemicals for both tasks did not show consistent agreement with exposure measurements when the comparison was made for each control method and this is believed to be because of the considerably different volatilities of the chemicals. Given the combination of health hazard and exposure potential components, the COSHH Essentials model recommended a control approach 'special advice' for both tasks, based on the potential reproductive hazard ascribed to toluene. This would not have been the same conclusion if some other chemical had been substituted (for example styrene, which has the same threshold limit value as toluene), says the report. However, it was special advice, which had led to the combination of hygienic procedures in place at this plant.

The probability of the combined exposure fractions exceeding unity was 0.0002 for the batch-making task indicating that the employees performing this task were most likely well protected below the OELs. Although the employees involved in the bucket-washing task had greater potential to exceed the threshold limit value of the mixture, the expected personal exposure after adjusting for the assigned protection factor for the respirators in use would be considerably lower. Thus, the findings suggested that the COSHH essentials model worked reasonably well for the volatile organic chemicals at the plant. However, it is noted that it was difficult to override



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the reproductive hazard even though it was meant to be possible in principle. Further, it became apparent that an input of existing controls, which is not possible in the web-based model, may have allowed the model be more widely applicable.

The experience of using the web-based COSHH Essentials model generated some suggestions to provide a more user-friendly tool to the model users who do not have expertise in occupational hygiene.