



Prosecutions

Failure to Manage Asbestos Risk

Nottingham City Council has been fined £30,000 for failing to manage the risk of asbestos after around 150 people were exposed to the potentially lethal material at one of its depots.

The Health and Safety Executive (HSE) prosecuted the council after a visiting contractor spotted debris on the floor of a building at the Woolsthorpe depot in Bilborough and suspected it may be asbestos-containing material.

When the discovery was made on 23 May 2009 the building was occupied by the council's Street Scene team, part of the council's neighbourhood services section responsible for maintaining and improving the city's environment. The building was used as offices, garages, a mess room and storage.

The HSE investigation found that when the city council purchased the depot in February 2005, an asbestos survey was carried out and the majority of the asbestos removed. However, due to the design of the building there was no guarantee that all the asbestos had been removed particularly, from joints in the roof. The council took the decision to contain any remaining asbestos in the building by painting the affected areas.

The specialist company that managed the asbestos removal gave the city council a plan which told them where any remaining asbestos was located and how to manage its condition. The city council failed to follow this plan. Health and safety inspections of the depot took place but these did not identify that the city council's own policies on the management of asbestos had not been implemented. This included failing to identify that Street Scene's management had not been properly trained in these policies.

The HSE's investigation found that for more than four years during which the asbestos deteriorated, the council did nothing to prevent the exposure to asbestos of those working in, or visiting, the building.

HSE principal inspector Frank Lomas said:

"The latest health and safety statistics show that more people are dying as a result of asbestos related diseases than are killed in accidents at work. This situation will not change unless organisations take their duty to manage asbestos seriously.

"The council failed to identify that its own asbestos policy had not been implemented at the depot. It's all well and good having policies in place but they are meaningless unless they are put into practice and in this case, around 150 people were needlessly exposed to a potentially fatal substance."

Nottingham City Council pleaded guilty to breaching Regulation 4(10) of the Control of Asbestos Regulations 2006 and Regulation 5(1) of the Management of Health and Safety at Work Regulations 1999. Nottingham magistrates have fined the council £15,000 for each offence and ordered them to pay costs of £12,000.



Fine after Fatal Trench Collapse

A Buckinghamshire construction company has been fined after a man died when a trench collapsed on him.

Builder Joshua Bladon, 22, from Leyton Buzzard, was killed while working on an extension at a house in Langdon Avenue, Aylesbury on 16 April 2008.

The Health and Safety Executive (HSE) prosecuted Mr Bladon's employer, Russell Smith Limited for breaching health and safety laws which led to the incident.

Russell Smith Ltd of Morton House, 9 Beacon Court, Pitstone Green Business Park, Pitstone pleaded guilty to breaching section 3(1) of the Health and Safety etc. at Work Act 1974. The firm was fined at total of £5,000 and ordered to pay costs of £5,000.

Aylesbury Crown Court heard the firm had been contracted to carry out the extension work.

Mr Bladon was digging a trench for the foundations with a colleague, who was using a mini-excavator. The main trench was being excavated at two different depths – 1.2 metres and two metres – in a deviation from the original plan, which was for a uniform 1.2 metres.

At some point during the work, the other employee noticed Mr Bladon had disappeared and the long trench had collapsed in the middle. He tried to dig his colleague out with the help of neighbours but Mr Bladon was pronounced dead at the scene from asphyxiation.

The HSE investigation found that Russell Smith Limited failed to take into account the risks of increasing the depth of the trench and so took no action to put the right safety measures in place. The company did not have a safe system of work on site which would have mitigated the hazards arising from the trench excavation.

HSE's Inspector Gavin Bull, speaking after the hearing, said:

"Trench collapses are a well-known cause of serious injury and death in the construction industry, this incident could easily have been avoided had the correct planning taken place.

"This is a shocking case that has had a profound effect on the family of Mr Bladon. Companies need to recognise the dangers of excavations and ensure safe systems are in order prior to starting work."



Legal Requirement for Lifting Operations Ignored

A court has been told how workers removing a crane runway from a Newcastle warehouse narrowly avoided being struck by a steel girder weighing almost four tons. The 15 metre girder was so heavy it partially demolished a warehouse office when slings used to attach the beam to the lifting crane failed.

Lifting specialists and crane manufacturers, Konecranes UK Ltd had been contracted to move the overhead runway beam from one end of a warehouse to the other at Siemens Energy Services, in Shields Road in the city.

Newcastle Magistrates' Court heard that when the slings failed the massive beam fell around 14 metres, narrowly missing workers and destroying an office. Fortunately the office was empty at the time and no-one was killed or injured as a result of the incident on 14 August 2009.

An investigation by the Health and Safety Executive (HSE), which brought the prosecution, revealed the operation had not been properly planned by Konecranes, which led to the wrong equipment being used.

Konecranes UK Ltd, of Lloyds House, Albion Road, West Bromwich, pleaded guilty to breaching Regulation 8(1)(c) of the Lifting Operations and Lifting Equipment Regulations 1998. The company was fined £8,000 and ordered to pay costs of £7,529.

Agency Workers not given Adequate Training

A company has been fined after three workers were taken to hospital following a chemical incident at a vegetable grower and supplier.

Spalding Magistrates' Court heard that on 11 September 2009, a Latvian agency worker at Emmett UK Ltd was cleaning food processing machinery when he accidentally mixed two cleaning chemicals which reacted together to produce a toxic gas. The factory was evacuated and three workers were taken to hospital with breathing difficulties, although all were back at work within days.

The Health and Safety Executive (HSE), which brought the prosecution against Emmett UK Ltd, found that the company had failed to provide suitable and sufficient information and instruction to the worker about the risks from the incorrect use of chemicals.

HSE inspector Jo Anderson said:

"This incident was entirely preventable had the company ensured that all agency workers were given adequate information, instruction and training.

"Our investigation also showed that there was almost no consideration given to the fact that some of the workers spoke very little English. As a direct result, three workers were taken to hospital for treatment and were lucky not to be more seriously harmed."

Emmett UK Ltd of Washway Road, Fosdyke, pleaded guilty to contravening Regulation 12 (1) of the Control of Substances Hazardous to Health Regulations 2002 and was fined £8,500 at Spalding Magistrates' Court. It was also ordered to pay full costs of £2,478.



Fine Following Eight Metre Fall

A Stoke-on-Trent building maintenance firm was fined when a steeplejack suffered serious injuries after falling eight metres from a church roof.

The Health and Safety Executive (HSE) prosecuted Alliance Technical Services Ltd, of Hampton Street, Hanley, after the 40-year-old employee, who did not wish to be named, fell from the roof of Holy Trinity Church, Hanley, Stoke-on-Trent, on 21 October 2009.

Newcastle-under-Lyme Magistrates' Court heard the man was repairing tiles on the church roof when an anchor securing his ladders to the church masonry suddenly gave way.

He fell about eight metres to the ground, suffering serious injuries including a spinal fracture, two broken ankles and a broken wrist. He spent three weeks in hospital and has not been able to return to work since the incident.

Alliance Technical Services pleaded guilty today to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974 and was fined £3,334 and ordered to pay £4,000 costs.

After the hearing, HSE inspector Keiron Jones said:

"When carrying out building repairs at height, companies should always ensure the work is properly planned and that ladders are properly secured.

"In this case Alliance Technical Services failed to provide the necessary training and instruction to their workforce to allow them to install and test the anchors correctly.

"This resulted in a completely avoidable and very serious disabling injury to one of their workers."

Multiple H&S Failures Lead to Fine

A Tyneside construction company has been fined after a worker suffered serious injuries following a fall from unsafe scaffolding.

Ian Allan Building Contractors Ltd was prosecuted by the Health and Safety Executive (HSE) following the incident in the grounds of the Old Vicarage, off Knaresborough Road, Murton, County Durham on 1 May 2009.

Consett Magistrates' Court heard Mr Kevin Clark, 54, from Swalwell, Gateshead, was working on the windows of a new building when the scaffolding platform he was standing on became dislodged, causing him to fall more than four metres to the ground.

Mr Clark suffered several crushed vertebrae in his spine and a fractured left foot and was in hospital for two weeks following the incident.

The HSE investigation revealed that the company had failed to control alterations to the scaffolding, failed to conduct inspections of the scaffold at least every seven days, failed to identify and correct unsafe alterations and allowed workers to use unsafe scaffolding.

Ian Allan Building Contractors Ltd, of Jesmond Road, Jesmond, Newcastle, pleaded guilty of breaching Section 2(1) of the Health and Safety at Work etc. Act 1974. The company was fined £1,500 and ordered to pay costs of £1,500 at Consett Magistrates' Court today (28 February 2011).



'Basic Safety Failings'

A Huntly-based haulage partnership has been fined £8,000 for health and safety failures at its site in Stirling.

Harpers Transport, which specialises in timber haulage and wood recycling, was prosecuted after inspectors from the Health and Safety Executive (HSE) attended at the firm's site at Cowie, near Stirling.

Following an investigation, the HSE inspectors discovered that a trailer used to transport waste chipboard between yards at the site was in a poor state of repair and unsafe. They also found that the trailer had been loaded with chipboard in an unstable configuration, placing employees at risk of injury.

It was also found that the task of loading, storage and unloading of the trailer with chipboard, despite being carried out by staff at the site regularly, had not been adequately risk assessed by the firm, that a safe system of work had not been in place for employees to follow and that those employees had not been adequately trained.

Harpers Transport, North Road Industrial Estate, Inch, Aberdeenshire, pleaded guilty to a breach of Section 2 of the Health and Safety at Work etc Act 1974 and was fined a total of £8,000 at Stirling Sheriff's Court.

After the case, HSE Inspector Karen Moran said:

"Moving wood around the site was part of the company's regular work, so they should have ensured that the equipment they were using was safe. The trailer that was used was in such a poor condition that it was not suitable for this task.

"Harpers Transport failed in its legal duty to ensure that clear hazards such as this are identified and measures put in place to manage the risk. This includes making sure that equipment is maintained in a condition to carry out the work safely and that workers are trained in the correct procedures.

"These were basic safety failings but the sad fact is that these simple problems can and do cause serious and life-changing injuries."



News

Manslaughter by Negligence Charges – Firefighter Deaths

Three fire chiefs in Warwickshire face charges of manslaughter by gross negligence after four firefighters died in a fire.

Their local government body, Warwickshire County Council, will face charges of failing to ensure the health and safety of its employees when the case comes to court in April, according to reports from the BBC.

Watch managers Paul Simmons and Adrian Ashley face the charges alongside station manager Timothy Woodward.

Michael Gregory, the reviewing lawyer at the Crown Prosecution Service's special crime team, told the news provider of the reasoning behind the charges.

"In [their roles] they were responsible for making the operational decisions while their colleagues tried to put out the fire," he said.

In response, Graeme Smith, the chief fire officer for Warwickshire County Council's Fire and Rescue Service, said: "The announcement made today will not only impact upon the Service here in Warwickshire, but it could potentially have significant ramifications on a national scale."

Warwickshire Police dropped charges against nine other individuals as the force decided there was insufficient evidence to prosecute.

In November 2007, Ian Reid, John Averis, Ashley Stephens and Darren Yates-Badley died while fighting a warehouse fire in Atherstone-on-Stour.

Guidance

Preparation of Socio-economic Analysis as Part of an Application for Authorisation

The European Chemicals Agency (ECHA) has published guidance on how to conduct the socio-economic analysis (SEA) component of an application for authorisation under the REACH procedure. The document will be of assistance to anyone obliged to undertake a SEA as part of that process and should be read in conjunction with guidance (from the same series) on how to prepare an authorisation application.

Background to authorisation

REACH is the European Community Regulation on chemicals and their safe use (Regulation (EC) No 1907/2006). It deals with the Registration Evaluation, Authorisation and Restriction of Chemical substances and came into force on 1 June 2007. It is designed to streamline and improve the legislative framework on chemicals across the European Union (EU).

The REACH Regulation requires pre-authorisation of substances of very high concern (SVHC) before they can be used and placed on the market. The substances that fall within the scope of this requirement feature in Annex XIV of the Regulation. The authorisation process involves applying to the ECHA for permission to use substances included in Annex XIV and is designed to ensure that the risks associated with the use of the specified substances are adequately controlled, or alternatively, are outweighed by their economic benefits. A fundamental feature of the authorisation procedure is the analysis of alternative substances or technologies which could potentially be used in place of an Annex XIV substance.

The nature of Socio-economic Analysis (SEA)

An SEA is a tool designed to compare the costs and benefits (all relevant impacts) to society of granting or alternatively, not granting an application for authorisation. The REACH authorisation process requires a SEA where the risks (to human health and/or the environment) of using an Annex XIV substance cannot be shown to be adequately controlled and there are no suitable alternatives to the substance. A SEA may also be used to support an application for authorisation where, to be successful, it would have to prove that the socio-economic benefits of continued use of the substance outweighed the risks of its continued use for human health and the environment. Alternatively, a SEA can be used to demonstrate the value of alternatives.

The SEA approach involves five key stages:

1. setting the aims of the SEA - explaining why it is being conducted
2. the scoping phase - determining the 'applied for use' and the 'non-use' scenarios, plus specifying the supply chains involved
3. identifying and assessing impacts (human health, environmental, economic, social and trade competition issues)
4. interpretation and drawing of conclusions – determining the net benefits and net costs of granting/refusing the authorisation
5. presenting the results - in the form of a report that clearly sets out the findings and assumptions used in the analysis.

The guidance offers detailed advice on how to effectively perform each of the aforementioned stages of the SEA process and is supported by eight appendices covering the following issues:

- effective consultation
- ways to effectively estimate impacts
- valuation techniques



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- discounting of costs and benefits
- uncertainty analysis techniques
- socio-economic assessment tools
- checklists for the identification of impacts
- information a third party may wish to submit to the ECHA's SEA Committee
- calculating compliance costs.

Steps to producing a 'good' SEA

The guidance explains that a 'good' SEA is one which adopts a systematic approach to the assessment process and which is both proportionate and unbiased. It is recommended that the SEA:

- is undertaken as an iterative process - starting with a qualitative assessment of available data and then developing this assessment, as necessary (with additional qualitative, quantitative and/or monetised assessments) until all key impacts have been considered and conclusion(s) can be drawn
- identify the relevant 'non-use' or non-availability scenario(s) at the beginning, as these will determine the scope of the SEA
- undertake the SEA in accordance with the five specified stages
- consider the uncertainties that may arise during the SEA process and incorporate them throughout the analysis. Wherever possible, the uncertainties should be minimised and their importance to the outcome of the SEA kept under review. All uncertainties should be specified and monitored
- clearly set out the main decisions/assumptions that formed part of the SEA – this includes an explanation of why certain factors were excluded from consideration
- be kept concise - ten pages is the recommended maximum.

Conclusion

In the context of the REACH authorisation process, SEA facilitates a systematic and comprehensive comparison of the relevant costs/benefits of continuing to use an Annex XIV substance with the costs/benefits of no longer being able to use the substance.



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Reports

Implementation of the Directives on Health and Safety at Work as a Cost Factor

The European Agency for Safety and Health at Work have recently issued the report of a study carried out to better understand the importance of Occupational Health and Safety (OSH) as a contributing factor to the economic viability of an organisation. It looked into the potential effects of the proposals currently on the table for reducing administrative burdens in the field of health and safety at work. It also considered the costs and benefits of compliance with OSH obligations, new and emerging risks and the need for new prevention measures to address these.

The European strategy for Organisational Safety and Health (OSH) sets an ambitious overall target for the period 2007-2012: to reduce by 25% the total incidence rate of accidents at work in the EU 27 for the period 2007-2012. At the same time, another European strategy, the Better Regulation Agenda, by 2012, aims to reduce administrative burdens for enterprises by 25% mostly by reducing companies' information obligations.

As these obligations can also be seen as enforcement measures, by requiring reporting on for example risk assessment, accidents and other incidents, the objectives of the two strategies may be seen as contradictory: one strategy aims to cut the information obligations, whereas the other may require increasing the obligations, or at least better enforcing the existing obligations.

The objective of this study was to gain a better understanding of the importance of OSH as a contributing factor to the economic viability of an organisation. The study assesses to what extent, and how well, current obligations are executed, in particular by SMEs, and whether cutting down on the information obligations could contradict or be a barrier to achieving the targets on enhanced prevention and reduction of work-related accidents and diseases. It also looks at how to increase awareness of OSH, on new risks emerging from new working patterns and whether these predicate for new prevention measures.

The report stresses the importance of prevention, noting that it is the guiding principle for occupational health and safety legislation in the European Union. The EU has adopted minimum requirements for health and safety protection at the workplace through a number of directives. The main directive governing OSH in Europe is Directive 89/391/EEC – the OSH Framework Directive. Based on this Directive, a substantial number of Directives cover specific sectors, risk areas, and other aspects of OSH. The Framework Directive defines the key principles relating to the prevention and protection of the health and safety of workers and constitutes the basis for all subsequent individual Directives. It establishes the principle that the employer has a duty to ensure the safety and health of workers in every aspect related to employees work. However, substantial differences continue to exist in the practical implementation of the various directives between Member States, due to differences in the sectors of activity and in company sizes.

The Community strategy 2007-2012 on health and safety at work calls for action by players at all levels – European, national, local and workplaces. However, it is difficult to assess the likely impact of the Strategy as most of the action will be taken downstream by stakeholders, through the development and implementation of coherent national strategies in the EU Member States.



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Recommendations

Several recommendations are made in the report, including:

- rather than eliminate completely the requirement for the smallest companies to produce written risk assessments, it is recommended to introduce risk-based approaches adapted to the specific risks associated with sectors and types of companies, preferably combined with simplified procedures for the smallest companies
- SMEs should be encouraged to take steps towards collecting more systematically information to better monitor their organisation's economic performance in relation to OSH, including having a separate budget for safety and health measures.