

Prosecutions

£50,000 Fine after Driver Killed

A Bucks plant hire company and one of its mechanics have been fined after a forklift truck overturned, killing the driver.

Morgans Plant Hire Ltd was prosecuted by the Health and Safety Executive (HSE) after an investigation into the death of employee Keith Nappin, who died at its site in Thame Road, Buckinghamshire, on 10 April 2007.

Aylesbury Magistrates' Court heard 42-year-old Mr Nappin from Keble Road in Bicester, worked as a heavy goods driver for Morgans Plant Hire Ltd.

On the day of the incident he was operating a fork lift truck, transporting and loading digger buckets onto flatbed lorries, when the fork lift overturned and Mr Nappin suffered fatal injuries.

The HSE investigation found Morgans Plant Hire Ltd failed to ensure that the fork lift truck was in good working order when Mr Nappin came to use it.

Company mechanic Matthew Edwards, of Aylesbury, had previously incorrectly modified the brakes on the forklift truck which Mr Nappin was operating. By doing this he failed to ensure the health and safety of his co-worker.

Morgans Plant Hire Ltd, based in Oakley, Buckinghamshire, pleaded guilty to breaching section 2(1) of the Health and Safety at Work etc. Act 1974 and 5(1) of the Provision and Use of Work Equipment Regulations 1998. The company was fined £50,000 and ordered to pay costs of £15,000.

Matthew Edwards pleaded guilty to contravening section 7(a) of the Health and Safety at Work etc. Act 1974. He was fined £2,000 and ordered to pay costs of £2,000.

After the hearing, Peter Burns, HSE Inspector, said:

"When Keith Nappin went to work on 10 April 2007, his family expected him to return home safely, but the failings of his employers mean he'll never go home again.

"This prosecution serves to show just how important it is for companies to take their health and safety obligations seriously. The HSE will not hesitate to prosecute any firm that fails to do so."

Firm Failed to Assess Risks

A worker suffered fatal head injuries when he was struck by a steel barrier while carrying out maintenance on a machine.

Balbir Rayatt, 55, from Ilford, Essex, worked as an engineering and maintenance manager for car mat manufacturer Cannon Automotive Limited in Tottenham, London.

On 20 May 2008, Mr Rayatt suffered fatal head injuries when the heavy steel fabrication barrier fell on him while he was carrying out repairs on a rubber-mixing machine.

The Health and Safety Executive (HSE) investigation revealed the barrier had been stored vertically and unsecured against rubber compound powder containers. The court heard the firm failed to assess the risks and implement a suitable and sufficient safe system of work for the maintenance of the mixer.

City of London Magistrates' Court heard Cannon Automotive Limited did not supervise, manage, monitor, audit or review its arrangements regarding maintenance operations on the mixer to ensure they met the health and safety standards.

Cannon Automotive Limited of Tottenham, London, pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974. It was fined a total of £20,000 and ordered to pay costs of £13,100.

Work at Height Fine

A father and daughter who own and run a farm in Hertfordshire have been fined by the Health & Safety Executive (HSE) after an employee fell through a fragile barn roof and suffered multiple fractures.

On 6 August 2010, Stefan Wasilewski, 39, was cleaning the roof of a barn at Ugley Hall Farm, Ugley, Bishop's Stortford. Mr Wasilewski and a colleague stood on scaffold boards placed over the roof and brushed the area with brooms, as instructed by their employers, James and Elizabeth Reay. The asbestos cement roof cracked and Mr Wasilewski fell five metres onto the concrete floor below. He suffered multiple fractures to his pelvis and ribs and was unable to walk for several months.

After the hearing at Harlow Magistrates' Court today, HSE Inspector Kim Wicks said:

"Working at height without any safety precautions in place will always put employees at risk. In this case there was an added risk as the surface the men were working on was fragile. Standards for working on fragile roofs are well-established and extensive guidance is available on HSE's website.

"This incident could easily have been avoided if these had been followed. Falls from height are among the biggest causes of workplace deaths in the UK and the outcome of this incident could have been even more serious."

Last year, more than 4,000 workers suffered major injuries as the result of falls from height and 12 lost their lives.

Both Elizabeth and James Reay, trading as H R Reay, pleaded guilty to breaching Regulation 9(2) of the Work at Height Regulations 2005. Elizabeth Reay was fined £4,000 and James Reay was fined £4,000. They were ordered to pay £2,083.30 in costs to be shared between them.

News

Full Scrutiny of Work-Related Road Injuries

The Royal Society for the Prevention of Accidents has called for all work-related road crashes that involve the need for medical intervention or a visit to A&E to be fully investigated and recorded, reports BusinessCar.

The Health and Safety Executive has now closed its three-month consultation into changes to workplace accident reporting under the current Reporting of Injuries, Diseases and Dangerous occurrences Regulations (RIDDOR), with proposals focusing on changes to the period an employee would have to be off work before employers need to report a work-related incident.

Road accidents involving at-work drivers are currently specifically excluded from the RIDDOR regulations, but RoSPA wants to see that changed. "Employers should be required to investigate and keep internal records of all injuries requiring A&E attendance or medical intervention, including injury from work-related road crashes," said the organisation's statement. "Record-keeping would need to be proportionate and not unduly burdensome but records would need to be made available to enforcing authorities if required."

RoSPA occupational safety advisor Roger Bibbings told BusinessCar: "We'll continue to make the case that road-related injuries should be included. But the HSE in its reduced state [following cutbacks] is even less likely to now."

The HSE told BusinessCar that the police are responsible for enforcing road traffic law. "The purpose of RIDDOR is to collect information which enables the health and safety-enforcing authorities to select incidents for investigation and possible enforcement action, and to provide statistical data for them to target and plan the application of resources," said a spokesperson. "As road traffic legislation is enforced by the police and not health and safety-enforcing authorities, the majority of road traffic accidents are not reportable under RIDDOR. Rather they are reported to the police who, along with other emergency services, will be the first to respond.

"Where the police find that there have been more serious management failings that led to the road traffic incident, then they will liaise with the HSE to look at wider action to deal with this."

Road safety experts estimate that a third of the deaths of UK roads are connected to at-work drivers, potentially putting the death toll at around 1,000 people per year.

People Continue to be Found Fit for Work

Latest statistics show that three-quarters of people who apply for Employment and Support Allowance (ESA) are continuing to be found either fit for work or stop their claim before completing their medical assessment.

The figures not only highlight the urgent need to reform the welfare system, but also why Ministers are right to press ahead with the reassessment of those on old style incapacity benefits which was rolled out across the country last month.

The Work Capability Assessment (WCA), which determines whether someone is fit for work, has also been substantially improved – the majority of Professor Harrington's recommendations are now in place with the remainder being implemented by summer to coincide with the first WCAs of incapacity benefit claimants taking part in the full nationwide reassessment.

Employment Minister Chris Grayling said:

"Once again we have clear evidence of the need for change in our welfare system. We now know very clearly that the vast majority of new claimants for sickness benefits are in fact able to return to work. That's why we are turning our attention to existing claimants, who were simply abandoned on benefits.

"That's why we are reassessing all of those claimants, and launching the Work Programme to provide specialist back to work support. We will, of course, carry on providing unconditional support to those who cannot work, but for those who can it's right and proper that they start back on the road to employment."

For all new ESA claims from 27 October 2008 to 31 August 2010, the result of the initial WCA is as follows (proportions do not sum exactly to 100% due to rounding):

- support group – 6%
- work related activity group – 16%
- fit for work – 39%
- claim closed before assessment complete – 36%
- assessment still in progress – 2%.

Guidance

Guidance on the Management of Psychosocial Risks in the Workplace

BSI has published a guidance standard (PAS 1010) on managing psychosocial risks in the workplace. Publicly Available Specification (PAS) 1010 offers guidance and good practice on assessing and managing psychosocial risks at work.

Psychosocial risks at work are a major cause of stress. Stress is one of the most common problems of the modern workplace, affecting the mental and physical well-being of over 40 million workers in the European Union each year, with costs to business being estimated at €20million.

This new standard is the first best practice guidance standard and benchmark for good practice for psychosocial risk assessment and management. PAS 1010 will help assessors address this area of workplace health.

PAS 1010 can help with managing organizational culture and employee relations, to ensure that your organization takes action to protect itself from poor performance and from being sued.

The standard will help human resources managers and specialists, occupational health and safety managers and specialists, managers and owners of small and medium-sized enterprises (SMEs), and employee representatives.

This PAS is most likely to be used by an organization that wishes to:

- establish a strategy and process of psychosocial risk management in order to eliminate or minimize risks to personnel and other interested parties who could be exposed to psychosocial hazards associated with its activities
- implement, maintain and continually improve the psychosocial risk management process and related practices
- assure itself of its conformity with its stated occupational health and safety (OH&S) and psychosocial risk policy.

Contents of PAS 1010 include:

- psychosocial risk management: overview, policy and key principles
- setting up the psychosocial risk management process
- the psychosocial risk management process
- monitoring performance
- management review
- Statutory requirements and guidelines
- work-related stress
- workplace harassment and third party violence
- developing a policy for the management of psychosocial risks and the prevention of work-related stress
- developing a policy for the prevention and management of workplace harassment
- examples of psychosocial risk assessment and management tools

Psychosocial risk management (the management of risks associated with work organization and the social context of work which have the potential for causing psychological or physical ill health) forms part of the European Council Directive 89/391/EEC, which stipulates the assessment and management of all types of risks to workers' health as employers' responsibility.

Safe Use of Quick Hitch Devices on Excavators

This Sector Information Minute (SIM) aims to describe what a quick hitch is and discusses common failure modes, particularly with semi-automatic hitches. It addresses key issues that inspectors may wish to consider during inspection and gives guidance on instances where enforcement may be appropriate. This version has been updated to include recent developments in both use and legal requirements.

A quick hitch (QH) on an excavator is a latching device that enables attachments to be connected to the dipper arm of the plant and interchanged quickly. An excavator operator may change the bucket on his excavator up to 30 times a day in order to maximise the machine productivity.

A significant number of all accidents investigated on excavators are attributed to the bucket detaching from a quick hitch and injuring a ground worker. These are mostly fatal and major injuries. Although it is noted that the true number of incidents is unknown.

The QH systems on the market can be manual, automatic or semi-automatic.

Over the past 10 years, QH systems have become increasingly common and now many large excavators and some mini-excavators are fitted with QHs. QHs need to be maintained and may well be replaced during the life of an excavator. If they are replaced, then it is important that the controls are compatible with the new hitch, or are replaced at the same time.

Although incidents have occurred with automatic QHs, accident statistics suggest that the majority of incidents occur on semi-automatic systems where a manual safety pin should be inserted, but where the operator failed to do so. This may be because:

- the bucket is changed frequently and the operator may on occasion fail to fit the safety pin in order to reduce the changeover time
- the excavator is working in poor conditions (eg. mud, heavy rain) and the operator is reluctant to leave the cab to fit the safety pin
- the operator may not have been adequately trained in the use of QHs, and is unaware of the need to insert the safety pin. (The excavator may be hired, and the operator may be familiar with the excavator, but not with the particular type of QH)
- a pin may not be available, having been lost or misplaced
- some hitches have two holes for the safety pin (in order to pick up different bucket sizes) and the pin may have been inserted into the incorrect hole by mistake.

There is a management issue in ensuring that the safety pin on semi-automatic hitches is always fitted. In some cases, supervisors may not be aware of whether a pin is required or not, or how to check whether it is in the correct position. In addition to precautions relating to the way the QH is operated, the basic precaution of ensuring ground workers are not required to work close to, or under the bucket (for example, within an excavation) should be strictly maintained.

The SIM goes on to cover:

- action by inspectors
- thorough examination
- recommended enforcement action.

Reports

ETUI Policy Brief - the REACH Example

The REACH Regulation, which lays down the rules for the marketing and using of chemicals in Europe, is one of the most far-reaching legislative reforms of the last twenty years. It enhances European competitiveness while giving improved protection to human health and the environment. The unions had a big hand in framing the legislation and remain influential in making it work. Along with the European social dialogue, close involvement by workers' representatives in developing and enforcing European laws designed to change our production models is another key means for developing social progress. It also paves the way for what could be the future of industrial relations in Europe, with the unions taking a prominent role in the regulation of key sectors of our economy.

This Policy Brief, published by the European Trade Union Institute (ETUI), looks at the example of REACH and the continuing union influence on this piece of EU legislation. It also argues for more union involvement in the tighter control of industrial activities through binding legislation. REACH bucks the trend of certain key measures that are central to the EU's Europe2020 Strategy and its industrial policy for the globalisation era (European Commission, 2010) to show that deregulation is not necessarily the best way to foster innovation and competitiveness.

The Hydrogen Economy – HSE Horizon Scanning Report

The issue considered by this HSE report is the health and safety implications of an increase in the use of hydrogen in domestic or vehicle applications.

Hydrogen can be used to generate energy by burning in a boiler or internal combustion engine, or by reaction with oxygen in a fuel cell (see below). Hydrogen can be produced by a variety of means, for example by the electrolysis of water or by algae. Since the residue from hydrogen is just water, it provides energy that is very clean at the point of use. A Hydrogen Fuel Cell (HFC) is an electrochemical device, which oxidises hydrogen, releasing electricity. Most fuel cells use oxygen from the air and hydrogen from:

- cylinders of compressed gas
- cryogenic liquid storage
- metal hydride storage
- methanol
- reformed liquid petroleum gas (LPG)
- methane.

A key stationary application foreseen for the hydrogen/fuel cell system is the provision of Combined Heat and Power (CHP) for homes and businesses, through 'microgeneration' of electricity and heat on site. In the short term CHP will be most likely to be HFC based, but use natural gas or propane as a fuel to generate hydrogen on site, so hydrogen distribution will not be required. Additionally HFCs are likely to replace diesel generators as backup power for data rooms.

Currently the gap between the state of HFC technologies and successful commercialisation is rather large. However, there are a number of projects ongoing over the coming years, particularly in relation to vehicular applications, that may lead to an expansion in the hydrogen sector. Some examples include:

- AFC Energy has developed low-cost HFCs for electricity generation for large-scale industrial applications
- ITM Power has a hydrogen-powered demonstration home in Sheffield, which is powered by an electrolyser (to produce hydrogen by splitting water) coupled with an internal combustion generator to produce electricity
- Intelligent Energy has a joint venture with Scottish and Southern energy to develop Combined Heat and Power HFCs for the UK commercial and residential market
- an important new market for HFCs has been fork lift trucks, which have advantages over the current battery trucks. In the United States there are several fleets of over 60 vehicles. HSE has received an inquiry regarding installation of a HFC fork lift infrastructure in UK warehouses; the main safety issue is indoor hydrogen refuelling.

Health & Safety Implications

Hydrogen gas is flammable and easily forms an explosive mixture in air. There is a very wide range of hydrogen/air concentrations that will explode. Additionally, a very low ignition energy is needed to ignite a hydrogen/air mix. Methanol, which can be used directly by fuel cells, is highly flammable and toxic. LPG and methane, which can be converted into hydrogen using a high temperature catalytic reformer, often adjacent to the fuel cell, are also highly flammable.

There are implications for safety from all elements of the fuel chain from conversion of the primary energy source, through to possible transport, storage and delivery stages, to use of the hydrogen for power generation.

Recommendation

Over the next 10 years or so the hydrogen sector in the UK seems set to grow, given the number of hydrogen projects and demonstrations running or planned in the UK and Europe. There are likely to be only modest numbers of commercial HFC installations and vehicles in this time period.



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However, HSE needs to monitor the growth of the hydrogen sector in order to build on its current early activity and to ensure that legislation and guidance remains appropriate and up to date for future developments in this sector.