

Brunswicks Regulatory News

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Exemplary fine

A developer and a contractor from north London, whose poor working practices left a Polish construction worker, Pawel Szczotka, permanently disabled, were fined a total of £110,000 and ordered to pay £165,000 in costs at Croydon Crown Court, following an investigation and prosecution by the HSE.

The incident took place on 16 March 2005 at a building site by the North Circular Road in Brent, London. A warehouse was being built by local developer Gargreen Ltd using its associated contractor Euro's (London) Ltd, both based at the North Circular Road address. Workers were moving a two-ton concrete slab into position in the warehouse by rolling it across a mezzanine floor on metal tubes. The slab became jammed while it was being placed on the steel frame of the floor. Mr Szczotka and a colleague went under the slab in order to push it up into position on the frame using a prop. When Mr Szczotka attempted to jack up the slab, it fell on him.

Mr Szczotka, who married with three young children, suffered major crush and fracture injuries to his pelvis and legs. More than two years on, he is still severely disabled, and medical experts doubt his ability to ever work again. He came to Britain as a migrant worker just weeks before the incident and, despite having no previous training or experience working on a construction site, he was employed by the contractor, paid cash in hand, and was not provided with any training.

HSE Inspector Simon Hester, who investigated the incident, said: "***The working methods that were used in this case were not acceptable. Companies must ensure safe systems of work are in place to prevent this type of incident, and to ensure that this does not happen again. This case also highlights the risks that migrant workers can be exposed to when unaware of employers' health and safety responsibilities and their own rights. The Health and Safety at Work etc Act 1974 protects the rights of all workers regardless of their origin. Workers can find out more about their rights, and report incidents or bad practice by calling 0845 345 0055 in confidence.***"

The client for the project, Gargreen Ltd, was fined £10,000 and ordered to pay costs of £10,000 after pleading guilty to a breach of reg 6 of the Construction (Design and Management) Regulations 1994 for failing to appoint a Planning Supervisor to oversee safety requirements on the construction site.

The principal contractor building the warehouse, Euro's (London) Ltd, was found guilty of breaching Section 2 (1) of the Health and Safety at Work etc Act 1974 for failing to ensure that a safe system of work was in place and for inadequate training and supervision of the work. The company had also pleaded guilty to a breach of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 1995 as they did not report the incident to HSE as required. The court imposed a total fine of £100 and ordered no costs to be paid.

Mr Vijay Kara, a director of both Euro's (London) Ltd and Gargreen Ltd, and who played a direct role in managing the construction work on the site, was charged with an offence under Section 37 HSWA which alleged that the breaches by both companies were a result of his own personal negligence.

The court found him guilty and he was fined £99,900 and ordered to pay costs of £150,000. Mr Kara was told he had six months to pay or he would face a custodial sentence.

During sentencing Judge Pratt said:

"This was a case of putting a saving of money before the safety of the workers. I am convinced that you Mr Kara were playing every trick in the book to evade your responsibilities."

Notes

Regulation 6 (1)(a) of the Construction (Design and Management) Regulations 1994 requires the client for a notifiable project to appoint a planning supervisor for the project.

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 require employers and others to report accidents and some diseases that arise out of or in connection with work. These reports enable the enforcing authorities to identify where and how risks arise and to investigate serious accidents.

Section 37 HSWA requires that where an offence under relevant health and safety legislation by a company is proved to have been attributable to any neglect on the part of a director, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Happy Christmas!

Welcome to this December 2007 edition. Merry Christmas and Happy New Year to everyone. As often seems to be the case the courts seem to rush to dispose of cases before Christmas - so even though December is a short working month there is no let up in the cases.

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Sir Robert McAlpine Limited fined £40,000

Sir Robert McAlpine Ltd (SRM) of Hemel Hempstead, was fined £40,000 and ordered to pay costs of £12,526, at a sentencing hearing at the Old Bailey. The company had pleaded guilty to breaching its s2(1) HSWA duty.

In July 2005 a worker at a construction site in Westminster, London, was hit by a lamp post which fell on his lower leg whilst the mobile crane was working. The mobile crane was moved several times. When it was placed in its final position it was noticed that the mobile crane could hit a lamppost. Adjustments were not made that took in to account the position of the lamp post. As a result the mobile crane struck the lamp post which shattered and fell. As a result of the incident the worker had to have his foot amputated.

Monica Babb, HSE Inspector said:

"Crane operations can present serious risks and it is therefore essential that crane installation is properly planned and implemented. Management systems should be clear so that a safe system of work is employed and incidents such as this are avoided."

Dive safety

Jurassic Coast Divers, of Royal Avenue, Exmouth, Devon, were fined a total of £6,000 and ordered to pay costs of £6,200 at Exeter Magistrates Courts on 12 December 2007 after pleading guilty to breaches of HSWA and the Diving at Work Regulations 1997. The charges related to the care and maintenance of divers' life support equipment, as the HSE investigation revealed that breathing systems used by the company were assembled incorrectly and put divers' lives at risk.

Commenting on the importance of this case, HSE diving inspector Richard Martins said: ***"This is a life or death matter - breathing systems are crucial pieces of kit and divers' lives depend on their proper functioning. HSE is very concerned that recreational diving providers adequately maintain and service such equipment and we have undertaken targeted inspections to raise this issue with them. A recently published research report from the Health and Safety Laboratory highlighted this danger and should be recommended reading for all those involved in the diving industry. Trainee divers are particularly vulnerable as they cannot be expected to have the knowledge or experience to determine the effectiveness of rented diving equipment. It is in the interests of the whole diving community to protect new divers from faulty equipment."***

The HSE investigation, which led to the prosecution, started after an incident involving the loss of a diver, Thomas Young, during the course of a recreational training dive at the site of the wreck SS Bretagne off Torbay on 12 July 2005.

Richard Martins continued: ***"During the course of our investigation we served a prohibition notice against the company, given failures discovered during forensic tests on diving equipment used by the company. This action prohibited the use of company serviced regulators on at work diving projects until they had been fully serviced in full accordance with the manual manufacturers' instructions by a competent person."***

The prosecution related to equipment standard failures and not the loss of Mr Young. Mr Young's body has not yet been recovered.

HSE calls for help into cancer research

The Health and Safety Executive is asking for help from people for its research into levels of cancer in workers at National Semiconductor (UK) Ltd. The HSE, together with the Institute of Occupational Medicine (IOM), are carrying out further studies after initial research raised concerns about the level of lung, breast and stomach cancer in women and brain cancer in men.

Researchers from HSE and IOM are inviting a number of current or former employees or their relatives to help in this important study. The researchers would like to interview workers who have had one of these illnesses and others from the workforce who have not suffered in this way. In some cases they will need to interview relatives.

Study leader Dr John Osman (HSE) said

"It is very important that we investigate our earlier findings as fully as possible. We want to understand if work at the factory may have affected cancer risks in the workforce. We need as many people as possible to respond positively to our request for help. We are very conscious that this is a sensitive subject for individuals and their relatives to discuss with us, and we do understand that some people may find it too difficult to help. But we do urge those we have contacted, and who have not yet replied to our request for help, to get back to us by whatever means possible so that we can make further progress. It is important that as many people as possible respond to our approach so as to enable the best possible study to be carried out."

If people want to come forward or are unsure about whether to help, or what to do, they can call our free confidential Helpline (0800 592450) or write to Dr Osman at HSE Redgrave Court 4.S3, Merton Road, Bootle, Merseyside L20 7HS

The research needs the help of 250 people. Some of them will be individuals who have had lung, breast, stomach or brain cancer, other can be relatives. Researchers also need a sample of about 200 people (or in some cases their relatives) who have worked at the factory but have not had one of these illnesses.

The current research is following up the findings of earlier research by HSE published in late 2001. A summary of the earlier research and HSE's interpretation of it can be found at: <http://www.hse.gov.uk/statistics/nsukleaf.pdf> .



The company's factory at Greenock

The research found:

The total number of women who had died (from all causes) was slightly fewer than expected; the number of men who had died was substantially fewer than expected. The total number of cancer cases in women and men was about the same as expected.

There were 11 cases of lung cancer in women, significantly more than expected - a finding that raised the possibility of a work-related cause. However, some of the detailed findings for lung cancer argue against the possibility of a workplace cause

There were 3 cases of stomach cancer in women, more than expected though the finding was or borderline statistical significance. The small number of cases makes interpretation difficult and as with lung cancer, some of the detailed findings for stomach cancer argue against the possibility of a workplace cause.

There were two cases of lung cancer in men, about half as many as expected, and no cases of stomach cancer.

There were 20 cases of breast cancer in women - 5 more actual cases than expected. This finding was not statistically significant, but did cause concern in the workforce.

There were four cases of brain cancer altogether. Again, the small number of cases made this a difficult finding to interpret.

None of the other cancers investigated produced any evidence of important excesses.

The work activities of those who have had lung and breast cancer will be compared with their colleagues who have not suffered from these cancers. There are too few cases of stomach and brain cancer to make such comparisons but the work histories of these cases will be examined to see if this can help with our understanding of any links between work at NSUK and these illnesses.

The IOM is assisting HSE because of its expertise in this type of research and because of the resource it is able to bring to the study locally.

The company's current management are co-operating with the research, which has the support of the current workforce. The South Glasgow and Clyde Research Ethics Committee has approved the study, which is being funded by HSE.

Chair and terms of reference for Glasgow factory inquiry announced

Lord Gill, the Lord Justice Clerk, has been appointed Chairman of the public inquiry into the plastics factory explosion in Glasgow on May 11 2004.

The terms of reference for the inquiry will include:

To enquire into the circumstances leading up to the incident on 11 May 2004 at the premises occupied by the ICL group of companies, Grovepark Mills, Maryhill, Glasgow

To consider the safety and related issues arising from such an inquiry, including the regulation of the activities at Grovepark Mills

To make recommendations in the light of the lessons identified from the causation and circumstances leading up to the incident

To report as soon as practicable

Peter Hain Secretary of State for Work and Pensions said:

"I am pleased Lord Gill has agreed to Chair the inquiry into the tragic and terrible events in Glasgow. Now that we have a chair in place, and an agreement on the terms of reference, we can ensure that the inquiry will be focussed on the events, and the families will not have to wait unduly for answers."

The Lord Advocate, Elish Angiolini QC, said:

"The events of the 11 May 2004 have a continuing impact on the lives of many people, on all those who were working in the factory that day, on the dozens of people who were injured, and especially on those who lost a loved one. This public inquiry will provide an opportunity, not only to fully air the circumstances which led up to that incident, but also to make sure that lessons are learned to help prevent another tragedy like this occurring."

On 11 May 2004 there was an explosion at a plastics factory operated by ICL Plastics Ltd and ICL Tech Ltd in Maryhill, Glasgow. As a result 9 people died and 33 were injured.

The HSE, the police and the Glasgow Procurator Fiscal's Office investigated the circumstances surrounding the incident. As a result both ICL Plastics Ltd and ICL Tech Ltd were prosecuted for various health and safety breaches over a number of years. On 17 August 2007 both companies pled guilty to all charges and were subsequently fined £200,000 each on 28 August.

The Lord Advocate has sole jurisdiction for the investigation of deaths in Scotland, following the conclusion of criminal proceedings she considered the form and remit of the inquiry, and in particular whether the issues could be properly addressed at a Fatal Accident Inquiry or another form of public inquiry.

Lord Gill practised at the Scottish Bar from 1967 to 1994 and at the English Bar from 1991 to 1994. He was appointed to the Bench in 1994. He was Chairman of the Scottish Law Commission from 1996 to 2001 when he was appointed Lord Justice Clerk. When he was in practice at the Scottish Bar he was counsel in the inquiries into the Clarkston Disaster and the Lockerbie Disaster, and in several nuclear inquiries, including the lengthy inquiry into the proposed reprocessing plant at Dounreay (1987). Between 1996 and 2001 Lord Gill dealt with all 239 of the civil actions in the Court of Session relating to the Braer oil-spill in Shetland. He was one of the appeal judges in the litigation arising from the Piper Alpha disaster.

Working at height leads to injury

The HSE is urging employers to ensure they have adequate safety measures in place to protect staff working at height. This follows an HSE prosecution of two companies at Nottingham Crown Court after an incident which left a worker with permanent damage to his left hand.

FKI Logistex Ltd were fined £20,000 and ordered to pay £16,496 costs after pleading guilty to breaching Regulation 4(1)(c) of the Work at Height Regulations 2005. Travhydro s.a. were fined £60,000 and ordered to pay £21,406 costs after pleading guilty to breaching Section 3 (1) HSWA. FKI Logistex Ltd were contracted to provide a warehouse storage system for B&Q at Manton Wood, Worksop. They sub-contracted the building of a mezzanine floor structure to Travhydro s.a. of Marcinelle, Belgium.

On 6 April 2005 Sebastien Marquet, a French agency worker employed by Travhydro, was installing and fixing floor panels on the mezzanine floor at the B&Q warehouse construction site, Manton Wood, Worksop. He stepped on an unsecured floor panel and fell 6m. He broke his jaw and his left arm and hand; he now has difficulty doing any manual work.

HSE inspector Martin Giles said:

"This incident could easily have been avoided if the companies had done a proper risk assessment to ensure adequate safety measures were in place for people working at height. Unfortunately that did not happen here as there were no nets under the flooring, no rails around the edges and nothing to prevent people walking underneath. If it had, Mr Marquet may not have been injured. All employers should heed this warning to ensure that they have safe systems of work in place when organising work at height."

Regulation 4 (1)(c) of the Work at Height Regulations 2005 requires that all work at height is carried out safely so far as it is reasonably practicable.

Working at height leads to death

Steven Harry Brian Martin, director of S.M. Coldstores Ltd, of Sheldon, Birmingham, was today ordered to pay £21,000 in compensation to the widow and child of Nathan Savage by Derby Crown Court. S.M Coldstores Ltd pleaded guilty to breaching Section 2(1) HSWA Mr Martin pleaded guilty to breaching Section 37(1) of the same Act.

S.M Coldstores Ltd employee Nathan Savage, 39, Birmingham died after falling from a significant height during overnight work to install a temporary mall to protect the public from construction work at Eagle Shopping Centre Devonshire Walk, Derby on 10 November 2005.

HSE Principal Inspector Samantha Peace said:

"This was a terrible incident which resulted in a man losing his life. Work at height remains one of the biggest killers of employees within the construction industry. Last year in the construction industry across the country, there were 10 employees killed, 13 self-employed killed and 3,409 seriously injured after falling from height. These incidents could have been avoided if companies ensured that they had thought through a safe way of tackling the job, avoided work at height where possible, selected the right equipment for the job and ensured workers were fully trained and properly supervised. The precautions that need to be taken to prevent falls are often simple and there is ample free guidance readily available to help companies take the right action."

Securing public safety

Anthony Broderick, a self employed property developer of Old Hall Street, Sale, Greater Manchester has been fined £17,500 and ordered to pay £9,500 costs at Trafford Magistrates Court.

He pleaded guilty to a breach of HSWA s3, in that he failed to ensure the safety of people not employed by him from risks arising from construction work.

The prosecution, brought by HSE, followed the death of John Jones on 3 March 2005.

Mr Jones stepped out of his home into an alleyway when the bucket of an excavator, driven by Anthony Broderick, unintentionally hit a wall that collapsed onto Mr Jones and killed him.

The court heard that Mr Broderick, who owned the block of properties, was demolishing the 1.8 metre wall, at the time removing a gate in order to construct car parking spaces.

HSE Principal Inspector Anna Bliss said:

"This tragic accident could very easily have been avoided had Mr Broderick taken time to fence off the footpath and make arrangements for access to the flats at safe times only.

For the construction industry Mr Broderick was doing a relatively simple job - just demolishing a wall. However, he was working alone, using powerful machinery without taking simple precautions for the safety of others. Greater Manchester is currently busy with construction work, ranging from huge prestige developments to this sort of small improvement job. It is important that anyone doing work that creates danger makes time to prevent unsafe access by members of the public. Smaller contractors should always set up the basic site safety measures before they begin work. HSE publishes guidance on what should be done, including free leaflets.

Construction activities that create risk outside of an existing site perimeter must be managed to ensure that members of the public are safe during the work. For short term work a banksman may be sufficient to ensure works stops as people pass. For high-risk activities or where the work takes place over a longer period of time, the site perimeter should be temporarily extended a safe distance, with clear fencing and warning signs. Alternative pedestrian or traffic routes may need to be arranged and may need permission from the local authority. Fuller guidance on ensuring the safety of the public from construction work can be found in HSE's publication 'Protecting the Public - your next move'.

Note

Free safety information, including the pamphlet 'The Absolutely Essential Construction Health and Safety Toolkit' can be found on HSE's website at: <http://www.hse.gov.uk/construction/information.htm> '

The cost of ignoring an Improvement Notice

Grimsby landlady, Lea Fields, ignored an improvement notice and warnings of the possible consequences if she failed to comply. Her obduracy ended up in front of Grimsby Crown Court. The improvement notice required that she arrange for a CORGI registered gas installer to carry out safety checks of the gas appliances and flues within a rental property at Barcroft Street, Grimsby. Despite the notice, the appliances and flues were not checked to ensure they were safe to use.

Following the court hearing, HSE Inspector Chris Chambers said:

"Landlords can't hide their heads in the sand when it comes to gas safety. It's their legal duty to ensure that all gas appliances and flues are maintained in a safe condition and are checked for safety at least once a year by a CORGI registered gas installer. Landlords who fail to do so put lives at risk and may end up with a substantial fine or even imprisonment."

Following an inspection by a CORGI Inspector called in by HSE, the gas fire and flue in the lounge were found to be unsafe. There was evidence that fumes had been leaking into the lounge and the flue to the fire was found to be leaking fumes into other flues at the property. The gas fire was made safe by the CORGI Inspector who disconnected it from the mains gas supply.

Lea Fields was sentenced to 200 hours community service, and ordered to pay costs of £500 after pleading guilty to breaches of HSWA and Regulations 36(2) and 36(3) of Gas Safety (Installation and Use) Regulations 1998.

Last year research commissioned by the HSE as a part of its wider gas safety review revealed that 45% of households were unaware of the dangers of CO poisoning from gas appliances, which killed 16 people in 2005/06.

Ed - another case where common sense never seemed to have intruded.

Petition power?

Communities Secretary Hazel Blears has launched what she has described as radical proposals to make people's voices heard on the key issues they care most about, such as tackling anti-social behaviour, helping older people or improving local parks.

Under these proposals, councils would be required to respond to petitions submitted by local people, which could be on any issue for which the local council has responsibility, from abandoned vehicles to youth services.

Currently there is no requirement for councils to respond to petitions, no matter how many people sign up. But under these proposals, councils would be legally required to respond to any petition gaining significant local support.

Under the proposed new measures if the council ignores the petition or the response is unsatisfactory, they could ask their local councillor to trigger a 'select committee' style scrutiny hearing within the local authority to ensure that an issue affecting the people living or working in his or her ward is raised and debated, under the new "councillor call for action", which Parliament recently passed.

Adding the duty on local councils to respond to petitions to the call for action will give people an additional, direct route to ensuring that their concerns and ideas are considered properly by those who have the power to do something about them.

Communities Secretary Hazel Blears said:

"We have a rich history of writing and signing petitions: 60 per cent of us do so each year, but do we have a rich enough history of answering and responding to them? These new powers would mean the concerns of local people can no longer be filed away and ignored, and ensure we have a more responsive culture. Governments are elected to serve the people, and that applies locally as well as nationally. New petition powers would put more influence, power and control in the hands of communities, leading to greater action to tackle their concerns and improving the health of our local democracy. Giving local people a greater say is not a threat to local government's legitimacy - good councils actually do this already. Listening to the concerns and priorities of the people who use local services can only strengthen our local democracy."

Notes:

Submissions to the consultation on petition powers are invited before 20 March, 2008. Details can be found at: <http://213.225.135.21:8080/publications/localgovernment/petitionscalls>

The petition powers duty follows the recently signed concordat which makes clear that "both local and central government have the responsibility to 'devolve power and engage and empower communities and individual citizens - in debate and decision making and in shaping and delivering services."

Another fall from height

John Ruck Construction Ltd of Leominster was on Monday 17th December fined £3,500 and ordered to pay 1,165 costs after pleading guilty to breaching reg 9(2) Work at Height Regulations 2005.

On 4th December 2006, employee Mark Woodward fell more than 4.5m through a roof whilst working at Leadon Court near Ledbury. Sufficient measures had not been taken to support or protect anyone from falling off or through the fragile roofs adjoining the one where the company was undertaking re-roofing. Mark Woodward fell through one of those adjacent fibre cement sheet roofs onto a concrete floor below.

HSE Principal Inspector Tony Woodward said:

"The roof where John Ruck Construction Ltd was contracted to work had measures in place to protect employees but, when the work plan changed, those employees were passing across other roofs which were totally unprotected. Mark Woodward suffered a broken arm that, even 12 months later, was sufficiently serious to require ongoing surgery. He is extremely lucky to be alive; we would not normally expect someone falling from that height onto a concrete floor to survive. Such falls remain one of the biggest killers of employees and last year, across the country, in the construction industry alone there were 10 employees killed, 13 self-employed killed and 3,409 seriously injured after falling from height. Many incidents could be avoided if companies ensured that they had thought through a safe way of tackling a job, provided all necessary protective equipment and ensured workers were fully trained and properly supervised. Precautions that need to be taken to prevent falls are often simple and there is ample free guidance readily available to help companies take the right action."

Note

Regulation 9(2) of the Work at Height Regulations 2005 states:

Where it is not reasonably practicable to carry out work safely and under appropriate ergonomic conditions without passing across or near, or working on, from or near, a fragile surface, every employer shall -

- (a) ensure, so far as is reasonably practicable, that suitable and sufficient platforms, coverings, guard rails or similar means of support or protection are provided and used so that any foreseeable loading is supported by such supports or borne by such protection;
- (b) where a risk of a person at work falling remains despite the measures taken under the preceding provisions of this regulation, take suitable and sufficient measures to minimise the distances and consequences of his fall.

Mapping Noise

A series of maps showing environmental noise around 18 major airports in England has been published by Defra.

The mapping, carried out during 2006-07 in line with the EU's Environmental Noise Directive, gives details of daytime and night time noise levels at each airport as well as noise levels around each site on an average day in 2006. The maps will be used to draw up action plans to address the noise climate around each airport and will include descriptions of the measures that will be taken to reduce environmental noise.

Environment Minister Jonathan Shaw said:

"Noise is an inescapable fact of modern life but we need to do what we can to manage it. A great deal has already been done to reduce noise from transport and industry but we need to build on and continue this work. These maps are part of that process and will enable us to better understand noise and deal with it."

There are already a number of EU directives in place to control noise from transport sources including vehicles and outdoor machinery. As required in the EU Environmental Noise Directive, Defra is working to produce noise maps for major roads, railways and big cities in England. These will include the airport maps published today, and will be used to produce action plans to help local authorities and airport operators better manage levels of noise in their communities.

In 2005, the Department for Transport issued guidance to airport operators drawing attention to the Environmental Noise Directive and noting that relevant airports would be required to produce noise maps by 2007. The guidance also stated that airports should consider any proposals for compensation where the scale of impacts could not be adequately mitigated. These measures could include voluntary purchase schemes and assistance with relocation costs where appropriate.

Notes

EU Directive 2002/49/EC relating to the assessment and management of environmental noise ('the Environmental Noise Directive') was adopted on 25 June 2002 and transposed into UK law by way of the Environmental Noise (England) Regulations 2006 which came in to force on 1 October last year. The mapping was carried out during 2006-07 for the 18 airports in England that fall within the remit of the Environmental Noise (England) Regulations 2006.

The Directive requires Member States to make and publish strategic noise maps for all major airports with more than 50,000 movements (a movement being a take-off or landing) per year.

Existing practice uses air traffic data during the summer months mid June to mid September to estimate the level of aircraft noise experienced by people living round the three London designated airports. The END requires the use of different parameters, L_{day} (07.00 - 19.00), L_{evening} (19.00 - 23.00), L_{night} (23.00 - 07.00), L_{eq16hr} (07.00 - 23.00), and L_{den} (00.00 - 24.00).

Action plans for the first round must be drawn up by 18 July 2008 and every five years for subsequent round.

The maps are available at <http://www.defra.gov.uk/environment/noise/ambient.htm>



Extract from a noise map from Liverpool John Lennon Airport.

The END places focus on “agglomerations” - in other words centres of population with more than 250,000 people. Is this going to mean less protection for areas outside that definition? The agglomeration of Liverpool is seen shaded pink. Halton Borough Council’s adjacent area includes Hale village and Runcorn which fall beneath the definition. Note the airport noise contours extend over those settlements and affect a greater population there than in Liverpool!

Changing the regulations for disposal of inert waste?

Possible changes to the rules for dealing with brick, concrete, hardcore, subsoil and other inert waste from the construction, demolition and excavation industries have been published for consultation. The government say the aim is to adopt a more proportionate and risk-based approach to its recovery and disposal.

The Government's Waste Strategy 2007 supports increased efficiency in the use of construction, demolition and excavation materials, but recognised a continued role for inert waste in restoring exhausted mineral workings. The Government committed to consult on options for reform of inert waste regulation by the end of this year.

Defra and the Environment Agency have worked with the industry led Landfill Inert Waste Sub-Group to develop possible ways forward, and responses to the discussion paper will help to shape final proposals. Comments are invited on proposals which address:

- * greater use of derogations from some of the Landfill Directive controls that are provided for inert waste;
- * the need for a level playing field for the different activities involving inert waste;
- * revised guidance on the testing of inert wastes that are landfilled;
- * inconsistencies in terminology for describing inert waste going to landfill; and
- * the quality of guidance, including classifying an activity as recovery or disposal.

The informal consultation reflects recommendations made in November 2006 on reducing or simplifying unnecessary regulation. It also takes account of a position statement by the Quarry Products Association in June 2006, setting out industry concern about the level of regulation.

The paper is published jointly by Defra, the Welsh Assembly Government and the Environment Agency at <http://www.defra.gov.uk/environment/waste/topics/index.htm>
The closing date for responses is 21 March 2008.

Notes:

Construction, demolition and excavation waste can also include timber, metal, plastics and hazardous materials such as asbestos. These wastes are outside the scope of this review.

The Landfill Inert Waste Sub-Group is led by the Chairman of the Quarry Products Association's Waste Committee, and includes members from the QPA, landfill operators, consultants, the Environment Agency and Defra.

The Quarry Products Association is the principal trade association for some 180 companies involved in supplying aggregates from land and marine sources. Its Position Statement can be viewed at <http://www.qpa.org/downloads/inertfull.pdf>

Lord Davidson's Review from which the November 2006 recommendations referred to above were drawn is published at http://www.cabinetoffice.gov.uk/regulation/reviewing_regulation/davidson_review/index.asp

Scaffolding failures penalised

Construction company Hadden Construction Ltd, was fined £2,500 at Stirling Sheriff Court on 21 December 2007, having pleaded guilty to a charge of breaching Section 3(1) HSWA. Mr Robert Bone (25) sustained severe injuries when he fell approximately 3.3m from the scaffold upon which he was working on 25 January 2007.

Hadden Construction Ltd was developing a small plot of land in Thornhill, Stirlingshire. They were constructing 6 detached houses on the site for sale to the private sector. Work was being carried out by both their own employees and subcontractors. Mr Bone was employed by ACUR Joiners Ltd of Kilsyth. ACUR Joiners Ltd were providing joiners to Hadden Construction Ltd on a labour only basis. All materials and working platforms, such as scaffolding, would be provided by Hadden Construction Ltd.

HSE Inspector Isabelle Martin commented after the case:

"It is entirely foreseeable that someone can fall from a scaffold when parts of the boarded platform upon which they are working are missing. It is important that those responsible for managing construction sites maintain the scaffolding to ensure that there is a safe working platform at all times. Scaffolding must be regularly inspected - at least weekly - to ensure that it remains in a safe condition. However, it is entirely possible that the scaffolding may need to be inspected at other times as well, such as where alterations are made between those inspections. These alterations must be carried out in a controlled manner by competent individuals who should ensure that guardrails and boarded platforms are complete and the scaffolding is sufficiently safe at all times. This incident could easily have been prevented. There were a number of areas on the scaffold around the house under construction where Mr Bone and his colleague could have fallen at any point during the period that they were working on it."

On 16 January 2007 Mr Bone and a colleague were working on the roof of the house at plot number 6. They were working from the top level of the scaffolding fitting fascias, soffit boards and roof vents. On 18 January 2007 Hadden Construction Ltd carried out the statutory weekly inspection on the scaffold and deemed that it was in good order. On 25 January 2007 Mr Bone was assisting his colleague in fitting the soffit to the gable end of the roof. Mr Bone had to walk backwards along the scaffold in order to fit the soffit onto the edge of the roof. He had not noticed that 2 boards were missing from the platform and stepped backwards into the space. He fell approximately 3.3 metres to the ground below. Mr Bone suffered severe injuries including broken bones in his back and a fractured breast bone.

The HSE investigation revealed that Hadden Construction Ltd had failed to ensure that scaffolding on this site was maintained in a safe condition and that only competent persons carried out alterations to it. On 25 January HSE prohibited all work at height on this site. Work could only resume once all scaffolding had been examined by a competent person and remedial action taken to return it to a safe condition.

Contractors should have arrangements in place to ensure that scaffolding is examined and maintained in a safe condition and that only competent persons can make alterations to it.

Further scrutiny of the Met

The Metropolitan Police Authority has agreed the terms of reference for its scrutiny into how the Metropolitan Police and it responded to the Independent Police Complaints Commission's Stockwell reports.

The three reports were written following the fatal shooting by police of Jean Charles de Menezes at Stockwell Underground station on 22 July 2005.

MPA Chairman Len Duvall will lead the scrutiny, which will begin its work in January and present its findings to a full meeting of the Authority in February.

Mr Duvall said:

"Over the past two years there has been much said about the way in which the Met and others acted following the tragic death of Jean Charles. The IPCC reports looked at the police operation around the shooting itself, and how the Met corporately and police officers individually responded afterwards. We announced in September our intention to review the way in which the Met has responded to the IPCC's recommendations and what changes and improvements have been implemented or are still needed to learn lessons.

The Authority as the oversight body for the Met also wants to explain to Londoners how the organisation has moved on since July 2005. We are now in a very different place organisationally and operationally than we were back then. But our job is to ensure new practices are adopted, procedures have changed and that everyone clearly understands what this means for future operations. We will make recommendations as we consider necessary to the MPA, the MPS and other agencies, and we will require regular updates on progress."

As well as looking at how the MPS and the MPA have responded to the IPCC Stockwell reports, the scrutiny will also examine:

The extent to which the recommendations made by the IPCC have been accepted and implemented;

Whether all the lessons have been learnt from the fatal shooting and the subsequent handling of information, and whether they have been incorporated into procedures, practices and command structures by the MPS and other agencies;

What changes, if any, are needed in relation to the MPA's practices for oversight of major critical incidents and their aftermath, including the MPA's role in public information and communications; and

What further action is needed, by the MPS, the MPA or other agencies to secure sustainable improvements in policy and practice.