

Brunswicks Regulatory News

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Rhondda Cynon Taf County Borough Council Fined

Rhondda Cynon Taf County Borough Council has been fined a total of £60,000 and ordered to pay costs of £22,675 at Cardiff Crown Court after pleading guilty to a charge under s3(1) HSWA 1974, and a further 2 PUWER charge. The charges follow an incident in April 2003 at the council's Clwyd Wen respite home, Miskin, which resulted in the death of 23-year-old Adam Morris of Beddau.

Mr Morris, who had cerebral palsy, was put in a bed fitted with bedrails that were not properly maintained or adjusted. He was injured when his head became trapped in the gap between the headboard and the bedrail, resulting in asphyxiation and severe brain damage. He subsequently died in hospital.

HSE inspector Siân Clayton said:

"The death of Adam Morris' death resulted from a failure by Rhondda Cynon Taf Council to manage the risks from bedrails. Adam's bed had been fitted with bedrails intended to keep him safe. Instead, because they were in poor condition and incorrectly fitted, Adam was exposed to unnecessary risk. The care staff who were required to adjust the bedrails had not been trained in how to do so properly and had no access to instructions. The dangers of poorly maintained and incorrect fitting of bedrails is well documented. It is imperative that staff working in care homes recognise the dangers that loose and wrongly fitted bedrails create and organisations with responsibility for providing care to the most vulnerable people should take heed of this case."

Ed- this sort of incident is common place. We deal with cases like this all the time. What I find particularly distressing is that the failure is a failure of management at the highest level. It is a failure to appreciate that more junior staff do not themselves appreciate risk - and tend only to think of themselves and the immediate tasks they are engaged upon. How do I get this done and ... tends to be the mindset. Until management realise the need to inculcate risk management into all staff members these sorts of incidents will always happen. We know that such work can be done. The British Army - and indeed all our armed forces seem able to take some of our less able fellow citizens and turn them into highly skilled men and women - all of whom seem to grasp the essentials of risk management for the work they do. Perhaps we should demand risk management training at school.

Happy New Year!

Expensive Food Bills

East End Foods plc, on 22nd January 2008, pleaded guilty to failing to take reasonable care for the health and safety of employees under s2(1) HSWA 1974. East End Foods plc was fined £25,000 with £28,000 costs.

Wolverhampton Crown Court heard that during the course of an investigation in June 2006, into an incident where an employee had been injured by a 50kg sack of rice falling onto the back of his neck, it transpired that large consignments of 50kg sacks of basmati rice were routinely being manually offloaded from containers without the use of any mechanical aids.

Access to containers and retrieval of initial sacks of rice was also being carried out by employees being raised and lowered on a pallet placed on the forks of a forklift truck. The company had not carried out a suitable and sufficient risk assessment for this activity, nor taken appropriate steps to reduce the risk to the lowest level that is reasonably practicable.

An Improvement Notice had been issued in December 2002 on East End Foods plc in relation to not carrying out a suitable and sufficient risk assessment for manually unloading 45kg sacks from containers, which involves risk of injury, principally back injury, from repeated lifting.

The HSE investigation into the incident highlighted ongoing activities that posed a high risk of musculoskeletal injury to employees, and that a suitable and sufficient risk assessment had not been carried out. In a typical six-month period, from January 2006 to June 2006, 1,700 tonnes of rice had been delivered that required manually offloading; therefore this was not an isolated incident. East End Foods plc had failed to heed advice given by both the HSE in 2002 and the company's own health and safety consultant in 2005.

HSE's inspector Judith Lloyd said:

"It is important that employers are aware of their legal duties to take reasonable care of the health and safety of employees. In the food and drink industry, 30 per cent of all acute injuries result from bad practice in manual handling. Stacking and de-stacking sacks, boxes and crates are amongst the top five causes of manual handling injuries in the food and drink industry. Studies have shown that three quarters of these injuries are preventable – that's why the HSE is vigilant in ensuring employers follow the rules and regulations set out for their industry."

Ed - quite!

Severn Trent Water Fined

Severn Trent Water Ltd, was fined £19, 750 and ordered to pay £6,730 costs by Nottingham Magistrates Court after pleading guilty to breaching s2(1) HSWA 1974.

On 24 May 2006, Dennis Hawksworth, 61, from Breaston, Derbyshire, was trying to unblock a machine used for removing debris from sludge at Toton Sewage Treatment Works in Nottinghamshire, when his left hand became caught in the machinery. The interlock on the machine's lid was damaged, leaving the dangerous parts in the machine unguarded. Mr Hawksworth lost four fingers and part of his palm.

HSE inspector David Butter said:

"This was an entirely avoidable accident which resulted in a man losing four fingers. Injuries from poorly-maintained equipment remain a significant and regular problem nationwide and companies must ensure that equipment is regularly inspected and maintained so workers aren't exposed to this kind of risk."

First Floor Window failure

Avon and Wiltshire Mental Health Partnership NHS Trust were prosecuted after an incident in which a 77-year old woman fell approximately 5.5m from a window at a Swindon hospital which was not adequately restricted. Iris Carey was a patient at the hospital and suffered a broken ankle and a compressed fracture of a vertebrae after falling from the open window on the Dean Ward at Swindon's Victoria Hospital.

The trust pleaded guilty to a charge under s3(1) HSWA 1974 and were fined a total of £20,000 and ordered to pay prosecution costs of £12,502, at Swindon Magistrates Courts.

HSE inspector Alison Fry said:

"The incident involving Iris Carey was entirely avoidable. The Trust had already identified a risk with the windows on this unit, as window restrictors provided to prevent falls did not meet the required standard. There are sensible and simple steps which should be have been taken to prevent this accident from occurring. Where appropriate, suitable safeguards should be provided to restrict window openings to no more than 100mm. There should also be suitable maintenance arrangements to ensure control measures are in place and functioning properly."

Ed - like the bed rails case reported on page 1 - this sort of incident is all too common. Forethought - in other words risk assessment - clearly absent.

Stockport Metropolitan Borough Council Fined

Stockport MBC has been prosecuted after a dumper truck driver was injured when his truck overturned and landed on top of him. The Council was fined £6,000 and ordered to pay £3,343.38 costs at Trafford Magistrates Court after pleading guilty to a charge under HSWA 1974 s2(1) that they failed to ensure the health and safety of an employee.

The Court heard that the accident happened in February 2006 when dumper truck driver Simon Nicoll suffered leg injuries after his vehicle overturned while carrying out landscaping work in Hollywood Park, Stockport.

HSE Inspector Helen Fuller said:

“Anyone involved with workplace transport should be aware of the operational limitations associated with the use of plant and should not underestimate the risks of improper equipment use. Employers have a duty of care to ensure that drivers are suitably trained; risks are assessed when planning work; and that adequate safety measures are in place. This prosecution should serve as a salutary lesson to those concerned with the operation of site dumpers and other workplace transport and act as a warning to prevent further accidents.”

Landlord fined for faulty fittings.

Landlords must use only competent CORGI registered gas fitters work on domestic gas appliances. The warning from the HSE follows a prosecution of a Rhondda landlord after he carried out gas work at one of his properties. Martin Griffiths, of Herbert Street, Treorchy, was fined a total of £6,000 and ordered to pay £4,478 costs after pleading guilty to breaching Regulations 3(1) and 36(4) of the Gas Safety (Installation and Use) Regulations 1998 at Llwynypia Magistrates Court on 25th January 2008.

Mr Griffiths fitted a boiler by himself at a flat he owned in Mitchell Court, Tonypany. His tenant noticed there was a gas leak and reported it to Transco, who made it safe.

HSE inspector Hugh Emmet said:

“Mr Griffiths was not accredited to carry out work on gas appliances and the consequences could have been extremely serious. We will prosecute people who work on gas appliances without the proper accreditation. In this case, the risk was fire or explosion but improperly maintained appliances can also give rise to carbon monoxide (CO) which is potentially lethal. You cannot see, smell or taste CO fumes, leaving anyone exposed feeling unwell. In the worst situations, CO can kill without warning in just hours. The law requires that only trained, competent people work on gas appliances, and the only accreditation currently recognised by HSE is membership of CORGI. If you are having gas work done, always check the fitter’s CORGI identity card before you let them start work.”

Gas – Safety First

David Mountford, from Longton, Stoke on Trent, was sentenced to six months in prison, on each of four charges, by Newcastle under Lyme Magistrates Court on Friday 11 January 2008. The sentences will run concurrently.

Prosecution followed an investigation into numerous incidents where Mr Mountford carried out work on gas appliances whilst he did not possess CORGI registration. He pleaded guilty to four charges of breaching HSE Prohibition Notices and two charges of falsely claiming CORGI registration. The court heard that work was often carried out under different names, including David Mansfield, and using different company titles.

Inspector Dr Janice Dale said:

“HSE has pursued a long investigation of Mr Mountford’s activities and we are therefore pleased that the seriousness of his activities has been recognised in the sentence. Mountford admitted falsely pretending to be CORGI registered. As the Court heard Mountford was prosecuted for similar gas work in 2005 and was the subject of a Prohibition Notice in 2004 preventing Mountford from carrying out gas work because he was not competent and was not registered with CORGI. He chose to ignore this and continued to carry out work on gas appliances, putting the public at risk from both carbon monoxide poisoning and gas explosions. Had Mountford been registered with CORGI he would have been subjected to regular scrutiny and checks of his competence. This case should serve as a reminder to the general public that anyone they ask to undertake gas work must be CORGI registered. If the installer does not have their ID card, you should not let them into your property. You can also check an installer’s registration on the CORGI website. This case should also be a warning to traders that they must be registered with CORGI and only undertake work for which they are qualified and competent.”

David Mountford pleaded guilty to four breaches of Section 33(1)(g) HSWA 1974 – failing to comply with Prohibition Notices served by HSE, which prohibited him from carrying out work in relation to gas fittings unless and until he became registered with CORGI; two breaches of Regulation 3(7) of the Gas Safety (Installation and Use) Regulations 1998 – for falsely pretending to be a member of CORGI.

Ed - I weary of reporting these Gas fitter cases - there is clearly a major problem of education which the HSE needs to tackle

Warwickshire Fire Service Must Improve

The HSE is working with Warwickshire Police on the ongoing criminal investigation into the circumstances surrounding the tragic deaths of the four fire fighters in the warehouse fire at Atherstone-on-Stour in November 2006. This is being carried out under the terms of the national protocol for liaison where there has been a work related death.

Alan Craddock, Head of Operations for the HSE in the Midlands Region says:

“The investigation is complex and involves a thorough investigation of all aspects of the incident. In terms of health and safety, the HSE team also has to consider the wider arrangements the Fire & Rescue Authority has in place for managing risks not only on the night in question but also more generally. Likewise, HSE, with the Police, is also looking at other duty holders involved with those premises as part of the investigation. As a result of our work on this investigation HSE has formed the opinion, based on the evidence we have seen, that the current arrangements employed by the Fire & Rescue Authority do not comply with the statutory duties to provide its fire fighters with all the information they should have to assist them in making the appropriate decisions when attending a fire.”

“We have therefore today issued an Improvement Notice requiring the Fire & Rescue Authority to make the appropriate arrangements to gather and take action in response to Information about special risks which may be present at premises where fire fighters may have to deal with emergencies.”

The Improvement Notice indicates that the Warwickshire Fire & Rescue Authority should make an Action Plan for the inspection of premises that ensures links are made between the relevant prevention, enforcement and operations sections of WFRS and which, in return, gives priority to higher risk premises. This is to be done within a realistic timescale, taking account of all the information gathered and received by WFRS. It also requires the Authority to ensure that the arrangements are reviewed at appropriate periods. The Authority is permitted to take equally effective steps to meet the requirements of health and safety legislation.

Alan Craddock continued:

“We recognise that there will be times when in order to protect the public, members of the fire service will expose themselves to danger and that it is not possible to eliminate all risks. That is not what the law requires. What is required is that precautions are taken that are commensurate with the risks and the circumstances. In the course of operational incidents officers and their managers need to be able to make difficult decisions by access to the most complete information possible so that they can weigh what they are trying to achieve, be that the protection of lives or property, against what they are facing and the level of risk”

to themselves and their colleagues. HSE believes that the brave men and women in the emergency services deserve to have the right equipment, the right training, and information whilst fulfilling their pledge to protect the public. There are wider learning issues here and that is why we have engaged with Sir Ken Knight, Chief Fire and Rescue Adviser at the Department of Communities and Local Government. He will be issuing an alert to all Fire and Rescue authorities to remind them of their legal obligations to gather such information and ensure it is easily accessible in the event of an operational incident."

"We wish to stress that this is only one aspect of the investigation, which is continuing."

Ed - There are no winners in a case like this. All one can do is salute the bravery of the fire fighters and look to improve management practices and procedures. Sometimes the criminal investigatory processes appear to be too crude. This is one such case in my view.

Question of Balance

Judith Hackitt, CBE, Chair of the Health and Safety told a group of safety professionals that they must balance their own important role with ensuring that others show responsibility and leadership to make Scotland a safer place to work.

Ms Hackitt said,

"People have a right to be safe in the workplace, no matter what size the company. The fact that 31 workers in Scotland lost their life at work in 2006/07 and 2702 people were seriously injured means that we can never be complacent about the need for good health and safety practice. It is also clear that to succeed we need buy-in and leadership from everyone not just committed professionals."

Our role is not to eliminate all risk – the reality is that we actually enable a lot of potentially dangerous activities to take place by making people aware and helping them manage the risk so that people can get on with the job safely. The work of HSE and safety professionals will never be done but we must do it by influencing others. It's not just a question of appointing someone with responsibility for safety and leaving it all to them. The drive and leadership needs to come from the top with directors at board level shouldering their own responsibilities and making others aware of their responsibilities. Our role is to help those who create the risk to manage it for themselves. People will then see that health and safety goes hand in hand with getting the job done and making all workplaces more productive and effective and ultimately safer."

Ed - Ms Hackitt is on a campaign to try and rebalance the reactionary image the HSE has!

HSE's Myth of the Month

Safety Experts' New Year resolution is to make the life of business people as miserable as possible

Not according to businesses. Those who have had contact with us were asked about HSE's helpfulness:

- 90% of employers and chief executives/ senior directors rate us as helpful.
- 90% of chief executives/ senior directors consider that health and safety requirements benefit their company as a whole.



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