



Assessment Failure causes Death

George Robertson Graham, the senior partner at Auto Recoveries of Millrace Road, Willowholme Industrial estate, Carlisle has been fined £100,000 and ordered to pay £20,000 in costs following a prosecution under s2 (1) HSWA for failing to carry out an adequate risk assessment or having a safe system of work in place.

He was charged following an incident on 23 May 2006 when 2 employees were moving a 5 tonne press brake - a heavy machine used to bend metal. While the machine was being moved, it toppled over and crushed one of the employees. The machine was being moved using a jack and rollers. As the machine was jacked up and the rollers were being removed, it rocked and tipped over, trapping the employee underneath. Colleagues rushed to his assistance and used a 'Manitou' reach truck to lift the machine up. Paramedics were called but the employee had died by the time they got there. A specialist mechanical engineer inspected the press, the jack and the rollers and concluded that the press was significantly 'top heavy' and there was always going to be a strong possibility of instability when it was raised. The conclusion was that the system of work for moving the press was not safe.

Health and Safety Executive Inspector Steve Smith said:

"A man has tragically lost his life here and what's particularly sad about this is that the incident could have been prevented if the employer had ensured a safe system of work had been in place. In this instance, an ad hoc system was devised without proper consideration of the nature of the object that was being moved or detailed analysis of the situation and the possible pitfalls. There had not been any special arrangements made through risk assessments, formalised systems of work, specially designed equipment or training of the employees involved. Consideration had also not been given to the use of a specialist contractor. Companies have a legal duty to provide a safe working environment. Had a proper risk assessment and safe method of working been carried out in this case, this tragic accident could have been avoided."

Transport Care

RT Trailers and Farm Buildings Limited of Park Cottage, Frogmore, Kingsbridge has pleaded guilty to breaching s2(1) HSWA and was fined £50,000 and ordered to pay costs of £10,000 by Exeter Crown Court.

The company was prosecuted following an incident on 15 February 2007 when employee,

David Farr was seriously injured. The incident - at Pithayes Farm in Whimble, Devon - involved the loading and transporting of steel shuttering panels. The panels are used to erect walls on farms and the company was moving a wall from one part of the farm to another.

The panels are usually transported on a flat-bed lorry but on the day of the incident a decision was taken, because of the high winds, to use a tractor and grain trailer. Mr Farr had to climb into the trailer in order to guide and unhitch the shutters as they were lifted in. One or more of the shutters then slipped and fell over within the trailer, crushing Mr Farr and causing him serious injury, including the loss of his right leg.

HSE Principal Inspector, Andrew Kingscott, said:

“This accident demonstrates the serious - and sometimes very personal life-changing - consequences of failing to assess risks and properly planning work activity when lifting and transporting heavy components. In this particular case, the decision to use the trailer to transport the panels and the system of work adopted were both flawed. What initially appeared to be a simple job ended in tragedy? Employers have a duty of care towards their employees and the partners in this company manifestly failed in theirs.”

Double Trouble

Millennium Inorganic Chemicals Ltd of Laporte Road, Stallingborough has been fined £40,000 and ordered to pay costs of £25,000 by Grimsby Magistrates Court, after pleading guilty to a breach of s2(1) HSWA. The Stallingborough site is subject to the Control of Major Accident Hazards Regulations 1999 (COMAH) regulations given the hazardous substances held on the premises.

The prosecution follows an incident on 29 October 2006 when approximately 82 litres of titanium tetrachloride (TiCl_4) was released into the atmosphere during the routine draining of a vessel on its Base Pigment Production Plant in preparation for routine maintenance. The company manufactures titanium dioxide for use in plastic bags, aerospace parts, paper coating, polymers and pigmentation for white paint. TiCl_4 is an intermediate in this production process.

During the incident the escaping TiCl_4 became exposed to moisture present in the air and then hydrolysed to produce hydrogen chloride vapour (HCl) and oxychlorides - the HCl component being toxic and corrosive. The situation was prevented from escalating further by the quick thinking of an operator who closed a valve and stem the flow of the liquid

HSE inspector Mike Nind said:

“This was a serious incident, which had the potential to endanger the health of members of the public some distance from the site. Only the swift intervention of an operator prevented this incident from escalating. The operator exposed himself to a significant personal risk as TiCl_4 was by then gushing from the system and raining down around the shut-off valve

making a direct approach impracticable. The quantity of TiCl₄ present in the system had the potential to generate a large vapour cloud presenting a potential hazard to people in areas well beyond the site boundary. As it was, the wind direction took the cloud out over the Humber estuary. The Coastguard quickly took the decision to close the River Humber to shipping traffic until the toxic cloud dispersed. Our investigation uncovered a catalogue of errors and omissions by the company, including design issues, failure to adequately assess the risk, safety management failures and inadequate supervision. The chain of events which caused this escape could easily have been avoided with better planning, supervision and careful management.”

In a separate prosecution, but dealt with at the same hearing, Millennium Inorganic Chemicals Ltd was fined a total of £20,000 after pleading guilty to a breach of s3(1) HSWA. This prosecution follows an incident on 27 February 2006 when a mechanical engineer, employed as a maintenance contractor at Millennium sustained a fracture of his left wrist and crush injury to his left forearm during a maintenance task.

The task required the engineer to dismantle a bearing on a Rotary Vacuum Filter drum. He was not informed that the drum, weighing in excess of 8.5 tonnes, was made buoyant by liquid in a sump underneath. The buoyancy caused the bearing cap to fracture during dismantling, trapping his arm. The risks associated with dismantling a bearing with a buoyant drum were known within Millennium but not communicated to the Contractor. The hazard could have been eliminated by draining the sump.

HSE inspector John Moran who led the investigation said:

“Within Millennium the hazard was well known and the risk foreseeable, but this vital information was not communicated to those at risk. This was a failure of Millennium’s safety management system. Risks to the employees of Contractors were not being thoroughly assessed, and there was no reliable system in place to communicate the measures that were needed to control risks. Such measures were particularly important in this instance because the Contractors were unfamiliar with the detailed working of the plant, and so were reliant upon Millennium to clearly communicate the actions that should be taken to make the plant safe before work began. Millennium did not do so. The hazard leading to the injury could have been eliminated by simply turning a drain valve, and so cost nothing in time, expense or effort. Our investigation demonstrates that if risk assessments are not done properly, and if there is no reliable system to communicate risk controls, then employees on the front line can find themselves exposed to hidden hazards which have the potential to cause serious long term injury. This lesson applies particularly to those who are unfamiliar with the equipment on which they are working. Suitable and sufficient risk assessment remains vital. Good communication is essential.”

Crusher Topples

Pullman Design and Fabrication Ltd, pleaded guilty to a charge under s2 (1) HSWA, and has been fined £30,000 and ordered to pay £27,500 costs by Cardiff Crown Court.

In September 2006, Colin Mark Davies, from Cardiff, was working with a colleague in moving a 'swarf crusher', which was part of a wheel lathe. It was being used by his employers, Pullman Design and Fabrication Ltd of the Train Maintenance Depot in Leckwith, Cardiff to refurbish the wheels of railway rolling stock. The machine was being moved using 'skates' which were being positioned under the legs of the machine when it toppled over, trapping Mr Davies. He suffered a broken collar bone, broken wrist, broken femur, back injuries and extensive bruising of the feet, back and legs.

HSE inspector Hugh Emmet said:

"Mr Davies suffered extensive injuries as a result of this incident. This demonstrates the need for companies to carry out suitable risk assessments to ensure that a safe system of work is in place and this includes all planning and training arrangements before work of this nature begins. There is a legal requirement for employers to carry out full risk assessments in situations where employees are exposed to greater danger."

Insufficient Scaffolding

Pinnacle Scaffolding Ltd of Stockton on Tees, Cleveland, has been fined £27,000 and ordered to pay costs of £6,000, and L J McLaren Engineering Ltd of Wooler, Northumberland, has been fined £10,000 and ordered to pay costs of £3,000, by Sheffield Crown Court. Both firms pleaded guilty to breaching reg 8(a) Work at Height Regulations 2005.

The incident, which occurred on 21 September 2007, involved a self-employed roofer who was sheeting the roof of a new factory under construction at Whaley Road, Barugh, Barnsley. The scaffolding at the roof edge did not comply with the requirements for collective fall protection and the man was able to slide between the scaffolding and the roof surface. As a result, he fell 25ft, breaking his arm and sustaining facial injuries.

HSE Inspector David Bradley said:

"On this occasion the roofer is lucky to be alive, although he has sustained significant damage to his arm and has not worked since the incident. The standards required for roof edge protection are clearly defined in the Regulations and straightforward to implement. The construction industry is one of the countries biggest, employing over two million people. It is also one of the most dangerous, with 34 of the 72 worker deaths in 2007/8 resulting from a fall from height. On top of this, over 4,000 major injuries such as broken bones or fractured skulls are reported to HSE every year by the construction industry, half of them involving falls from height, which are easily preventable."

Ed - Regulation 8(a) The Work at Height Regulations 2005 states: the top guard-rail or other similar means of protection shall be at least 950 millimetres or, in the case of such means of protection already fixed at the coming into force of these Regulations, at least 910 millimetres above the edge from which any person is liable to fall;

(b) toe-boards shall be suitable and sufficient to prevent the fall of any person, or any material or object, from any place of work; and

(c) any intermediate guard-rail or similar means of protection shall be positioned so that any gap between it and other means of protection does not exceed 470 millimetres.

Gas Works Causes Shopping Centre Closure

Keltbray Ltd of south west London pleaded guilty at Bracknell Magistrates' Court and has been fined £18,000 for breaching s3 HSWA. They were also ordered to pay costs of £20,469 and a victim surcharge of £15.

The prosecution followed an incident on the 15 August 2006 when Keltbray Ltd was the principal contractor for the refurbishment of a retail unit within the Queensmere Shopping Centre in Slough. The company failed to ensure that all services were switched off before the sub-contractor cut through a live gas pipe causing a fire.

HSE Inspector, Karen Morris, said:

"Companies need clear, manageable and reliable systems to ensure that people are not put at risk in these situations. In this case, the subcontractor was given a document confirming that it was safe to carry out the pipe-cutting work, but reasonable checks had not been made and the pipe was in fact live. Fortunately no one was injured, although the incident caused a significant risk to the safety of site workers and members of the public. The outcome could have been much more serious."

Gas Safety - threat of imprisonment

Adrian Ellis - a landlord - was fined a total of £11,300 and ordered to pay court costs of £8,700 in his recent prosecution. He was further ordered to pay £20,000 within 56 days or face 12 months in prison. Mr Ellis had originally failed to appear in court in 2006 to answer the charges under the Gas Safety (Installation & Use) Regulations 1998 and so a warrant with bail was issued for him. Mr Ellis was found and the warrant was served on him in March 2009.

Once in court Ellis admitted five breaches of the regulations when he appeared at Colchester Magistrates' Court. The fines Mr Ellis received were:

- £2,500 for carrying out work on a gas boiler without being competent to do so, breaching Regulation 3(1)
- £2,000 for the same offence at a different property, likewise breaching Regulation 3(1)
- £3,300 for neglecting to ensure a gas boiler was maintained in a safe condition, breach-

ing Regulation 36(2) (a). The boiler was condemned by a HSE specialist.

- £2,000 for failing to ensure a record of any safety check in respect of a gas boiler was made and retained, breaching Regulation 36(3)(c)
- £1,000 for neglecting to ensure a copy of a safety check record was given to a tenant, breaching Regulation 36(6)(a)

HSE inspector Matthew Tackling said:

“People needlessly die each year from carbon monoxide poisoning due to a lack of effective maintenance of gas appliances. Annual safety checks must be carried out by a competent and registered gas engineer. Landlord Gas Safety Records should be received, checked and kept for a minimum of 2 years. Tenants must also be provided with a copy. It is illegal for an unregistered person to carry out work on a gas appliance. When unqualified landlords try to cut corners in this way they are not only putting themselves at risk of prosecution and a large fine, they are also putting their tenants’ lives at risk. Working with gas appliances is a difficult, specialised and potentially dangerous job and only fully qualified engineers should attempt it. The HSE will not hesitate to prosecute landlords who fail to take their responsibilities for safety to their tenants seriously and to follow up on those who fail to co-operate with any investigation or fail to appear in court.”

Potato Processor

Swancote Foods Ltd, of Hortonwood, Telford, has been fined £10,000 and ordered to pay costs of £5,000 by Telford Magistrates’ Court after pleading guilty to breaching s2 (1) HSWA.

On 20th April, 2007 a 22yr old employee of Swancote Foods Ltd, was cleaning a conveyer-fed potato processing machine when he received lacerations, bruising and tendon damage to his left forearm and elbow. Edward Davies, a senior manager of the company, was found not guilty of a related offence.

The court heard that there was a lack of safety guarding on the machine, which had not been identified by a risk assessment, and the injured worker was inadequately trained and supervised.

HSE inspector David Kivlin said:

“Adequate safeguards on moving machinery and safe systems of working should always be in place. Employees had themselves spotted fundamental flaws in cleaning procedures and raised their concerns that insufficient safeguards existed for their protection but senior management did not heed those warnings. The worker’s injuries were sufficiently serious to cause some long-term discomfort and adversely affect his work capabilities. The machine should clearly have been properly guarded. Particularly in food processing industries the need for strict hygiene through regular cleaning is essential, so safe practices are paramount. Many incidents could be avoided if companies ensured that they had established a safe way of tackling those jobs and ensuring that competent persons are regularly assessing

and minimising the associated risks.”

Building Collapses

Bukan Singh Hothi, of Glen Parva, Leicester, has been fined £10,000 and ordered to pay court costs of £7,500 by Nottingham Crown Court after pleading guilty to breaching s3(1) HSWA, for failing to ensure the health and safety of persons not in his employment during his role as director of 426 Leicester Ltd, the company involved in the development. The prosecution follows an incident at 235a Radford Road, Nottingham on 11 January 2007 when the building collapsed.

HSE Inspector Cliff Seymour said:

“The building being worked on was a Victorian mill that was being converted into four residential units. It had been subject to fire damage and become derelict. The collapse of the building nearly resulted in tragic consequences as one of the workers was in the building and only just managed to get out in time. Firms involved in building work, refurbishment or maintenance should ensure that the work is planned properly and sensible measures taken so that both workers and the public are not exposed to risk. The building that collapsed was located in a residential area and next to an infant school and these factors must be taken into account when planning the work.

This case illustrates the importance of all risks being properly assessed so that appropriate working practices can be put in place to ensure that everyone is safe. In 2007-8, 38 people died on the site of refurbishment, repair and maintenance projects across the country which is why it is vital to get the message home. Getting the job right in the first place and addressing all health and safety matters can save developers not only time and money, but reduce the risk of someone losing their life. To highlight this message we have recently launched an awareness campaign aimed at small scale property developers such as Mr Hothi and a refurbishment blitz, which targeted all refurbishment projects, took place during March 2009. A total of 117 sites were inspected across Nottinghamshire, Lincolnshire, Derbyshire and Leicestershire and Rutland. Of those 117 sites, 25% of the sites were served with HSE notices.”

Asbestos Removal

Roger Lee Lavender, the managing director of a company, Secal Laser Ltd, has been fined £6,666 and ordered to pay costs of £11,039.88 by Shrewsbury Crown Court after pleading guilty to failing to ensure that work was undertaken by a licensed company and failure to ensure the safety of his employees during the unlicensed removal of asbestos insulation boards from the company's Telford factory.

Surveys, conducted in 2004 and 2007, clearly stated that removal of the asbestos from the factory would need to be carried out by a licensed asbestos company. Yet despite admitting

knowledge of the 2004 survey, Roger Lavender authorised the unlicensed removal of the identified asbestos and instructed his own employees to carry out the work.

The court heard that although he was aware of the presence of asbestos and the associated dangers, Lavender instructed two of his employees to remove asbestos insulation boards from within the factory at Halesfield 5, Telford. The court also heard that the work, if done in accordance with the regulations, would have cost in the region of £40,000 and caused severe disruption to the business. The way in which the work was actually done exposed his employees to the risk of inhaling asbestos fibres.

Speaking after the case, HSE inspector Guy Dale said:

“Roger Lavender says that he read the 2004 asbestos survey and therefore should have been aware of the dangers of inhaling asbestos fibres if the material was disturbed. That asbestos survey made it clear that any removal of the material was dangerous and must be carried out by licensed specialists. However, Mr Lavender allowed his employees to be exposed to the serious risk of inhaling a ‘Class 1 carcinogen’ that can cause mesothelioma and lung cancer. Those responsible for employees ordinarily have a legal duty to protect their health and safety but in the case of asbestos they should know that any disturbance of such a dangerous material should only be tackled by licensed workers.”

Ed – The HSE brought charges under reg 8(1) Control of Asbestos Regulations 2006 and s33 (1) (c) and 37(1) HSWA.

Thumb Crushed

Trucast Ltd, of Derby Road, Melbourne, Derby, pleaded guilty to breaching reg 3(1)a Management of Health and Safety at Work Regulations 1999 and reg 11(1) PUWER. The company has been fined £5,000 and ordered to pay a contribution towards costs of £9,000.

The investigation found that at Trucast Ltd’s factory in Malborough Road, Ryde, which manufactures turbochargers for cars, an employee suffered crush injuries to his left thumb when it became trapped in the closing clamp mechanism on the machine he was operating. The risk assessments that had been carried out were not suitable and easy access to the dangerous parts of the machinery remained. This included access to the rotating cutting blade and moving clamp mechanism which caused his injury.

HSE Inspector, Roger Upfold, said:

“This case illustrates the need for employers to undertake and review risk assessments in a way that correctly identifies all of the significant risks, and as a result ensure that an appropriate package of measures including physical safeguards, safe systems of work and consistent training are provided for the safety of all workers.”

Ed - Regulation 3(1)a Management of Health and Safety at Work Regulations 1999 states:

Every employer shall make a suitable and sufficient assessment of - (a) the risks to the health and safety of his employees to which they are exposed whilst they are at work; and (b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking, for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions and by Part II of the Fire Precautions (Workplace) Regulations 1997.

Safe Systems for repair

FW Mason & Sons Ltd of Colwick Industrial Estate, Nottingham, has been fined £4,000 and ordered to pay £2,497.50 costs by Nottingham Magistrates Court after pleading guilty to breaching s2 HSWA. The charges relate to an incident on 27 June 2007, when an employee of the firm, Paul Huckle, attempted to repair a fault when working on equipment which cuts timber. In doing so he suffered lacerations and damage to tendons and muscles and bone in his lower leg and was taken to hospital.

It was found that his employer failed to provide a safe system of work for replacing dislodged drive belts on the handling equipment of the timber processing line.

HSE Inspector Francine Clarke said:

"Today's judgement sends out a firm message to timber companies that correct systems must be in place for when machinery fails. Companies must provide adequate systems and instructions so that employees know what action to take when machinery fails so that repairs are carried out safely."

Curtain sided trailer crush injuries

Mansfield-based SDC Trailers Ltd has been fined £3,300 and SDC Parts and Services Ltd has been fined £2,600, both were ordered to pay costs of £1,824.60 by Mansfield Magistrates Court, after pleading guilty to breaches of health and safety law.

SDC Parts and Services Ltd contravened Regulation 3(1)(a) Management of Health and Safety at Work Regulations 1999 in that they failed to make a suitable and sufficient assessment of the risks to the health and safety of their employees in relation to the unloading of trailers containing lorry tyres and wheel and tyre assemblies. SDC Trailers Ltd contravened Regulation 10 Work at Height Regulations 2005 in that they failed to prevent tyres loaded on a curtain-sided trailer from falling, causing injury to an employee.

On 4 June 2007, an employee of SDC Parts and Services Ltd was injured whilst unloading a consignment of lorry wheel and tyre assemblies from a curtain-sided trailer. The trailer had been loaded by SDC Trailers Ltd at their factory in Northern Ireland. The goods were being manually palletized when one fell from a stack and fractured his knee.

On 10 July 2007, another employee of SDC Parts and Services Ltd received crushing injuries when preparing to unload lorry tyres from a curtain-sided trailer, also loaded by SDC Trailers Ltd. As he released the curtain an unsecured stack of tyres fell from the trailer, pinning him against an adjacent vehicle and causing crush injuries.

Prosecuting, HSE Inspector Maureen Kingman said:

“The unloading of trailers in which loads have not been properly secured places those involved at considerable risk. The outcome of these incidents - the injuries and the subsequent fine - reminds us that the results can be serious for people and for businesses that fail to comply with their health and safety duties.”

Warning Signs

Drax Power Ltd in Selby, North Yorkshire, has been fined a total of £2,000 by Selby Magistrates Court after pleading guilty to breaching reg 6(3) and 11(b) Work at Height Regulations 2005, and was ordered to pay costs of £2,800.20.

This follows an incident on 18 May, 2007 in which an employee was taking a routine operational tour of plant and equipment. A fixed scaffolding barrier had been erected to prevent access to the area, as a floor plate had been removed so that cleaning work could take place. However, no hazard warning sign had been attached to the barrier to indicate the risk of entering, so the man went in via the entry gate. As a result, he fell approximately 10ft through the hole to the basement below. He sustained serious injuries and has been unable to work since.

HSE Inspector Jacqueline Ferguson said:

“This man received severe injuries and hasn’t so far been able to return to work, as a direct result of an entirely avoidable incident. Falls from height remain the single biggest cause of workplace deaths and one of the main causes of major injury and are a priority for the Health and Safety Executive. All work at height should be regarded as high risk, requiring stringent control measures to prevent often fatal consequences. This accident could have been prevented if the danger had been eliminated at the first opportunity, by simply replacing the floor plate once the cleaning had been done - some 10 days prior to the accident.”

Light Rig Falls

The Blue Parrot Events Company, East Kilbride has been fined £2,000 by Edinburgh Sheriff Court after pleading guilty to a charge under reg 10(1) Work at Height Regulations 2005. The prosecution follows a potentially fatal incident in June 2007 when a heavy theatre light fell from the circle balcony at Portobello Town Hall, after a children’s music show. The lighting rig struck a push chair, knocked it over and injured the child strapped into it and another child nearby.

The light stands had been raised above the height of the balcony so they could project onto the stage. The lights were placed close to the balcony edge with no method of fixing them in place - leaving them liable to dislodge and topple over into the auditorium.

HSE inspector Peter Dodd commented after the case:

“Thankfully the injuries to the children were minor however it was just sheer luck that no-one was killed. The arrangement for the lighting at the children’s show in Portobello was makeshift and the problems should have been anticipated. If an adequate risk assessment has been conducted, this would have highlighted any potential problems and this incident could so easily have been avoided.”

Ed – Regulation 10(1) Work at Height Regulations 2005 states: “It shall be the duty of an employer to take suitable and sufficient steps to prevent, so far as is reasonably practicable, the fall of any material or object, where necessary to prevent injury to any person.”

Welding Gun causes Burns

A1 Rewinds Ltd of Brewery Street, Aston, Birmingham has been fined £2,000 and ordered to pay costs of £1,500 by Birmingham Magistrates’ Court for its failure to maintain oxy-acetylene welding equipment in an efficient state, efficient working order and in good repair. The court heard that the equipment had not been maintained for 28 years.

The HSE brought a charge against the company under reg 5(1) PUWER following its investigation into the incident that occurred, on 16th July 2008, at the company’s premises. An employee, Mr Harjit Singh Matharu, was lying beneath a vehicle, using an oxy-acetylene welding gun, when acetylene leaking from the perished hose caught light, burning the 43-year-old man’s face and arms.

Speaking after the case, HSE investigating inspector Pam Folsom said:

“The hoses were in an absolutely appalling state, totally perished and had been shortened each time that a bend split the hose allowing highly flammable gas to escape. The consequences of a gas cloud igniting beneath a vehicle, while a man is in the middle of that explosive mixture, are likely to be horrific. It is important for companies to ensure that they have fully considered all the risks their employees may face when using any equipment. The hoses were so obviously badly perished that there is no excuse for this incident.”

Ed - Regulation 5(1) Provision and Use of Work Equipment Regulations 1998 states: “Every employer shall ensure that work equipment is maintained in an efficient state, in efficient working order and in good repair.”

Hazardous Chemical Warning

Garnett Dickinson Print Ltd has been fined £1,330 and ordered to pay costs of £2,520 by

Rotherham Magistrates' Court after pleading guilty to an offence under s7(1) Control of Substances Hazardous to Health Regulations 2002 at its plant at Brookfields Way, Manvers, Rotherham.

Pulse Printing Products Ltd, of Emery Road, Brislington, Bristol, was also fined £340 and ordered to pay costs of £839 after pleading guilty to an offence under reg 5(1) Chemicals (Hazard Information and Packaging for Supply) Regulations 2002.

The prosecutions came after an investigation into cases of dermatitis arising from the use of UV curable lacquers used to apply a glossy finish to products such as magazine covers. The lacquer was applied by a machine at the end of a printing line installed in 2006 at Garnett Dickinson's new factory at Manvers, Rotherham.

HSE Inspector Steve Kay said:

"Design problems meant workers came into contact with the lacquers through spillages, yet because of some basic flaws in Garnett Dickinson's management of the situation, workers' health was put at risk by repeated exposure to this irritant substance. There was a lack of suitable protective equipment such as gloves and training was insufficient. The lacquer was supplied by Pulse Printing Products. It did not meet the criteria of a voluntary industry scheme promoting the use of the least reactive acrylates, and a data sheet supplied with the lacquer failed to specify the type of protective equipment required.

Furthermore, the manufacturer of the machine, Scheffer Inc, failed to supply instructions for filling or cleaning the machine. Although the machine had a CE mark, indicating that it conformed to European legislation, a conformity assessment did not appear to have been carried out."

Ed -

Regulation 7 (1) Control of Substances Hazardous to Health Regulations 2002 states: Every employer shall ensure that the exposure of his employees to substances hazardous to health is either prevented or, where this is not reasonably practicable, adequately controlled

Regulation 5(1) of the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 requires that the supplier of a dangerous substance etc shall provide the recipient of that dangerous substance or dangerous preparation with a safety data sheet which contains [all necessary] information

Sleeping on Site

Asaad Al-Helu of Newland Avenue, Hull, pleaded guilty to two offences under s33(1) HSWA at Hull Magistrates Court. He has been fined £1,000, ordered to pay costs of £1,149 plus the £15 victims surcharge.

Asaad Al-Helu, the principal contractor undertaking refurbishment work had allowed five

migrant Polish workers to use the site as sleeping accommodation.

The premises contained a large amount of flammable material such as wood and rubbish, and also many sources of ignition. These included the unsafe electrical system, the workers smoking and drinking on site, and the need for heaters in the sleeping accommodation. There was no means of escape or of raising the alarm in the event of a fire. This endangered not only the men sleeping on site but also, potentially, the residents of the nearby terrace of houses.

Asaad Al-Helu had also failed to prepare a construction plan before the start of construction work, which should have brought to light the risks from fire, work at heights and site electrics. The plan would have enabled safe working practices to be used.

Health and Safety Inspector John Rowe said:

“These five construction workers were allowed to sleep on the site at night, which exposed them to fatal injuries in the foreseeable event of a fire. One carelessly discarded cigarette could have had serious and possibly fatal consequences, not only for them but also for local residents. Generally, standards of work and preparation on the site fell far short of the industry norm. The risks were foreseeable and straightforward to avoid.”

Thames Valley Police to be prosecuted

Thames Valley Police and PC David Micklethwaite face prosecution over alleged breaches of health and safety law. It follows an investigation into the non-fatal shooting of Keith Tilbury, a civilian employee of Thames Valley Police Authority during a firearms awareness training session on 30 May 2007 at Meadow House, Fountain Court, Oxford Spire Business Park.

The Chief Constable of Thames Valley Police, as a corporation and the employer of the police officer, faces one charge in respect of the alleged breach of s3(1) HSWA.

PC David Micklethwaite, the firearms instructor running the awareness course, faces one charge in respect of an alleged breach of s7 and 33(1)(a) HSWA.

Drunk Aboard

Captain Alexander Phimister (62) has been fined £1,800 after pleading guilty to allowing drunk crew members on board, a breach of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code).

In November 2007 Captain Phimister from Buckie, was master of the offshore supply vessel Vos Viper. The ship arrived in Lerwick Harbour on 15th November 2007 to carry out repairs to the radio equipment. The repairs were delayed and so the ship remained alongside. The following evening, the 16th November, Captain Phimister went ashore with the second engineer George Mains and the Chief Officer Gordon Buchan to celebrate his birthday at the

local pub. Whilst they were there they met some other members of the crew.

The party returned to the ship at around 0100 hours on the morning of the 17th. The Chief Officer, Gordon Buchan (48) went to make a cup of coffee and fell down the stairs. Tragically he died of his injuries. The subsequent post mortem showed that he was more than three times over the statutory alcohol limit of 35 microgram's of alcohol in 100 millilitres of breath.

Tom Robinson Area Operations Manager survey and inspection said:

"This prosecution has come out of a very tragic incident and on behalf of the MCA I would like to express our condolences to the family of Mr Buchan. The company had an established safety management policy that banned those that had been drinking to excess coming aboard. Through his own example Captain Phiminster failed to ensure this was complied with and tragically on this occasion someone died. The sentence today should send a clear message that those in charge of a vessel have a duty to ensure regulations and requirements are upheld, particularly those that are there for the safety of all onboard."

Failing firm analysis

The proposed acquisition of 15 former Zavvi stores by HMV plc has been cleared by the OFT after investigating the merger on its own initiative. Prior to Zavvi going into administration at the end of last year, both parties were leading national retailers of entertainment products, with overlapping stores in a large number of local areas across the UK.

Following its investigation, the OFT decided that a reference to the Competition Commission is not necessary as the 'failing firm defence' is met. A merger based on a 'failing firm' claim can be allowed by the OFT if evidence clearly shows that, without it, a business would have exited the market completely, and that no realistic alternative to the merger was available. The rationale for accepting such claims is that any harm to competition would result even without the merger, and so should not be attributed to it.

In this case, the OFT received compelling evidence that without the merger the stores would have completely exited the retail sector due to the collapse of the business. There was no less anti-competitive alternative to the merger in the overlap areas, and this included no other realistic entertainment retail purchaser for the stores.

This is the fifth time that the OFT has cleared a transaction using the failing firm defence, and the first since the December restatement.

E-criminals

Gareth Thomas has announced that action tackling fraudsters and criminals who use the internet to con consumers will be a key theme of the Government's forthcoming Consumer

White Paper.

T

he minister informed us that more effective enforcement was needed to protect consumers using the internet to buy goods and services from scams and fraud. Proposals will be brought forward in a White Paper to be published in the summer.

Gareth Thomas said:

“E-criminals and fraudsters can be highly sophisticated, mobile, working across regional and national boundaries. With British consumers making almost double the amount of online transactions compared to the European average, they are twice as likely to be exposed to online fraudsters. Our current system is designed to protect the consumer who goes to a shopping centre or retail park. But the modern consumer is now increasingly buying goods and services through websites that could be run from anywhere in the world, with goods shipped and delivered across borders.

We need to create a regime that is fit to protect the consumer from modern fraudsters and criminals. This means looking more innovatively at new ways of working.”

Estate Agent Banned

The OFT has issued a prohibition order banning a Croydon estate agent from estate agency work after she failed to disclose a personal interest in the sale of a property.

Marcia Whyte who ran Executive Estates, Brighton Road, South Croydon, failed to disclose to a potential vendor, promptly and in writing, that she was seeking to acquire his property. An adjudicator found she also failed to disclose her personal interest to a potential purchaser to whom she intended to re-sell the property. Had the transaction proceeded Ms Whyte stood to make a secret profit of £65,000.

In addition, the estate agent received a deposit from the potential purchaser, even though doing so is unlawful where an agent has a personal interest in the property, even when that interest has been duly disclosed.

Mike Haley, OFT Director of Consumer Protection said:

‘Estate Agents must immediately disclose to prospective vendors and purchasers that they have a personal interest in the sale of a property they are marketing. This is specifically to prevent them from making a secret profit, as Marcia Whyte would have done in this case. We take seriously any complaints of an estate agent potentially misleading consumers by failing to disclose a personal interest.’

House Price Index

Monthly house prices in England and Wales fell by 0.4% in March, compared to a fall in February of 2% according to the latest figures from Land Registry. The average house price is

now £152,895, representing an annual decrease of 16.2%.

In London the average price fell 15.4% annually, although London's monthly house prices increased by 0.6%, bringing the average property value in the capital up to £299,613. The last time London had a positive monthly rise was March 2008.

The West Midlands was the region with the most significant monthly price fall losing 2%.

The North East experienced the greatest monthly rise with a movement of 1.8%.

The most up-to-date figures available show that during January 2009 the number of completed house sales fell by 57% to 24,770 from 57,810 in January 2008. In London 2,876 house sales were completed in January 2009 compared with 8,217 in January 2008. This represents a fall of 65%.

Manchester United Ticket Terms

Manchester United has agreed to revise its season ticket terms and conditions to make them clearer and fairer for fans.

Following a complaint from the Manchester United Supporters Trust in November, the OFT identified a number of potentially unfair terms with the club's season tickets under the Unfair Terms in Consumer Contract Regulations (UTCCRs). The club has responded positively and agreed to amend its terms to ensure that every season ticket holder is now guaranteed a seat at every home game, that clearer information will be provided if a ticket holder is likely to be moved from their seat for a cup match, pro-rata refunds shall be available if a ticket is terminated for failure of credit card payments, duplicate tickets are available if the originals are lost or stolen and a clearer appeal process exists.

Though Manchester United did not agree that the previous terms and conditions were unfair the club has provided assurances that these changes will be implemented in time for supporters considering the purchase of season tickets for 2009/2010.

Mike Haley, OFT Head of Consumer Protection, said:

'We have worked closely with Manchester United and are pleased that the club has amended its season ticket terms to the considerable benefit of its fans. These changes greatly improve the protection for season ticket holders at all stages of the process, from upfront transparency on potential costs, to a guarantee of a ticket to all home games in all competitions.'

Newspaper Distribution

The Secretary of State has agreed with a recommendation by the OFT that newspaper wholesalers will no longer have to conform to a statutory code of practice requiring them to supply all new retail outlets. Wholesalers had been obliged to operate in accordance with an agreed code of practice governing distribution of national newspapers in England and Wales.

However, changes in circumstances in the market mean the problem the code of practice

was designed to address - refusal to supply new retail outlets - is no longer a concern and not likely to re-emerge.

UK recycling

The UK recycled almost two-thirds of all packaging produced in 2008, according to the latest figures from the Department for Environment, Food and Rural Affairs and the Environment Agency.

Last year UK businesses contributed to the recovery of more than 7 million tonnes of packaging waste of which 6.6 million tonnes were recycled, the equivalent of saving roughly 8.9 million tonnes of CO₂.

Environment Minister Jane Kennedy said:

“This is a really significant achievement and shows that we are making good progress on packaging recycling. Businesses which handle packaging have a vital role to play in reducing the amount of waste we’re sending to landfill and I’m pleased to see they’re doing their bit.”

Environment Agency Chief Executive Dr Paul Leinster said:

“The level of carbon saving - equivalent to the amount of CO₂ generated by around one-and-a-half million UK homes each year - shows why it’s important for all of us to keep on recycling. Last year was the best year yet for the amount of packaging waste recycled. Everyone - the public, local authorities and businesses - should be proud of what has been achieved and spurred on to do even more. We’ll continue to help businesses meet their obligations and take tough action against those avoiding their responsibilities.”

All EU Member States have targets set by the EU on packaging recycling and recovery. The 2008 targets were recycling 55% and recovering 60% of packaging across the year.

Bag It

Shoppers in the UK get through a shocking 13,000 carrier bags in their lifetimes, new research shows as the Government launches a new campaign on reusing bags.

A survey of shoppers found that on average we use more than 160 new carrier bags each every single year, at least 400 a year for the average household. In 2008 alone, 9.9 billion carrier bags were distributed -- enough to fill 188 Olympic swimming pools, and if laid end to end they would reach to the moon and back seven times.

Environment Minister Jane Kennedy said:

“We simply can’t continue using the billions of new carrier bags we do every year, it’s such a huge waste and a visible symbol of our throwaway society. Retailers and the public have already made great steps in the right direction, and I think if we really can ‘get a bag habit’ and remember to reuse our bags, it puts us on the right track to doing even more to reduce the amount of waste we’re sending to landfill.”

The “Get a bag habit” campaign which has been launched with the British Retail Consortium aims to encourage the reuse of carrier bags and follows a commitment by seven leading supermarkets to reach a 50% cut in the number of bags given out by the end of May this year. Since 2006 retailers have reduced the amount of bags they give out by 26%.

Water – The Future

Water companies in England and Wales have announced their business plans for the five year period starting in 2010. These include proposed bill increases ranging from inflation only to almost 30% above inflation. The Consumer Council for Water says that whilst some companies have based their plans around what their customers would find acceptable, others clearly have not.

This is the second stage in a price setting process which happens every five years. The regulator, Ofwat has to determine the maximum amount that each water company will be allowed to raise prices between 2010 and 2015.

Reasons given by water companies for the price increases vary but include tighter environmental and drinking water quality standards, higher energy costs, new financial pressures, and work needed to protect assets from natural disasters such as flooding. Late last year, the Consumer Council for Water, together with industry bodies, undertook research to check customers’ reaction to the original price increases proposed by the water companies. Some companies’ plans were viewed positively by their customers and at first sight the Consumer Council for Water is still pleased with plans produced by Dwr Cymru Welsh Water, Severn Trent Water and Yorkshire Water.

Other water companies, such as Cambridge Water, Three Valleys Water and Southern Water, have revised their plans to bring them more in line with what their customers would find acceptable, although there is still more work to be done.

However, the proposals by a few companies still fall short of many customers’ expectations. Despite pressure from the Consumer Council for Water, some companies’ plans such as Bristol Water, Sutton and East Surrey Water, and South East Water remain out of line with what many would find reasonable.

Dame Yve Buckland, Chair of the Consumer Council for Water, said:

“In the current economic climate, price increases will be unwelcome for most of us. We recognise that some price increases may be necessary to enable companies to meet the pressures being put on water companies from growing populations, climate change, and tighter EU and UK standards. However, some companies seem to be making a late call for higher prices, which is of concern. From the information published today, we think customers would give the industry as a whole less than a six out of ten for these proposals.”

We expect Ofwat to make sure that consumers’ views are taken fully into account as they scrutinise each company’s plans and remove any excess as they work towards their final decision on prices later this year. Customers need to see the justification for any proposed

price increases, and to understand exactly what they will get for the extra money. Price rises should be acceptable to, and affordable for, customers.”

£11m to protect our seas

A five-year study costing £11million has been announced which shall look into the effects of climate change on Britain’s seas as scientists warn of more acidic seas affecting the food chain. Ocean acidity, caused by increased amounts of carbon dioxide in the sea, has risen by 30% in the last 200 years, faster than any time in the last 65million years, with serious implications for sea life and our climate, according to a new report.

The sea absorbs CO₂ in the atmosphere but over time as emissions have increased it has become more acidic, which means not only will it absorb less CO₂ in future but that corals, plankton, shellfish and other vital links in the food chain will be under threat.

Now Defra is jointly funding a major research programme with the Natural Environment Research Councils (NERC). It will concentrate on the North East Atlantic, Antarctic and Arctic oceans and study the effects of acidification on biodiversity, habitats, species and wider socio-economic implications.

Huw Irranca-Davies, Minister for the Natural & Marine Environment, said:

“Ocean acidification will be one of the biggest environmental concerns of this century, with major and far-reaching impacts. We need to understand much more about the scale and nature of the effect CO₂ is having on our oceans and marine life.”

The ocean acidification research programme is expected to run for five years, with NERC funding £7.7million and Defra contributing £2.5million in the first three years with a provisional commitment of £800,000 over two more years.

Crane register

The creation of a statutory tower crane registration scheme to improve tower crane safety and public confidence in their safety has been announced. The new register has been agreed alongside a package of measures to improve tower crane safety and is likely to be in place by April 2010.

James Purnell, Secretary of State for Work and Pensions said:

“It’s unacceptable that people are dying directly as a cause of their work with tower cranes and I want to prevent this toll of human misery. It is also important that the package of measures is successful in both improving tower crane safety and improving public confidence in cranes. HSE will consult with both the industry and the public to agree how both of these ends can best be achieved.”

The register is part of a package of proposals to improve tower crane safety, including working with the industry to improve the competence of those involved in handling tower cranes

and carrying out targeted inspection work over the next 12 months. A voluntary system will precede the statutory scheme, and should be in operation later this year.

Working Time OPT-OUT

Brussels talks on the EU Working Time Directive broke up without agreement, with the UK successfully resisting pressure to accept the removal of the right to opt-out of the maximum 48-hours week. A meeting of the EU's Conciliation Committee was unable to resolve differences between the European Parliament and member states over whether to retain the opt-out or not.

The UK and other countries held firm against a European Parliament amendment to the Working Time Directive that would have phased out the opt-out in three years.

Employment Relations Minister Pat McFadden said:

"We have said consistently that we would not give up the opt-out and we have delivered on that pledge. We argued that everyone has the right to basic protections surrounding the hours that they work, but also the right to choose those hours.

Choice over working hours has operated successfully in the UK and in other Member States for many years. In the current downturn it is more important than ever that people keep the right to put more money in their pockets by working longer hours if they wish. We refused to be pushed into a bad deal for Britain."

Talks will now be reconvened for later this month, although it will clearly be a challenge to bridge the gap between Member States and the European Parliament.

Bee decline

Pollinators including honey and bumble bees, butterflies and moths play an essential role in putting food on our tables through the pollination of many vital crops. These insects are susceptible to a variety of disease and environmental threats, some of which have increased significantly over the last five to ten years. Climate change, in particular warmer winters and wetter summers, has had a major impact on pollinators. Up to £10 million is to be invested to help to identify the main threats to bees and other insect pollinators, under a new major project.

To gain a better understanding of why this is happening, some of the UK's major researchers have joined together to launch an important new research programme.

The biggest challenge will be to develop a better understanding of the complex relationships between biological and environmental factors which affect the health and lifespan of pollinators.

The funding will be made available to research teams across the UK under the Living With

Environmental Change (LWEC) partnership, the major initiative by UK funders to help the UK respond effectively to changes to our environment. This is a joint initiative from the Biotechnology and Biological Sciences Research Council (BBSRC), Defra, the Natural Environment Research Council (NERC), the Wellcome Trust and the Scottish Government.

HSE's Myth of the Month



The HSE's copyright in this cartoon and its caption is acknowledged as is the license to reproduce it.

Podcasts

Brunswicks was the first law firm in the UK to branch out into podcasts. We've got an extensive library of podcasts available to download free of charge. You can find them on our website.

Brunswicks Health Care Review

If you have an interest in health and social care why not subscribe to Brunswicks Health Care Review, our weekly digest of what's new and changing in the sector. You can find a back catalogue on our website as well as information on how to subscribe

Myth:

People don't have to take any responsibility for their own health and safety

The reality

Employers have a duty to protect workers and the public from dangers caused by their work - and HSE is committed to making sure they do that. But health and safety isn't entirely someone else's responsibility.

We all have a duty to keep ourselves safe, by co-operating with safety measures and not putting ourselves or others in danger. This is just common sense - something we all use every day.

It's important that we aren't put at risk by other people's actions, but if we ignore our own responsibilities, real risks can get missed. Playing the blame game doesn't keep people safe - better to rely on common sense and co-operation



BRUNSWICKS LLP
SOLICITORS

Registered Office:

56 Hamilton Square, Birkenhead CH41 5AS

Registered Number OC311095

Registered in England & Wales

Regulated by the Solicitors Regulation Authority.

A list of members is available at our registered office or on our website

www.brunswicks.eu

Editor: Andrew W Dawson