

Brunswicks Regulatory News

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Fatal Crush Injuries

Biffa Waste Services Ltd has been fined £190,000 and ordered to pay costs of £50,000 after pleading guilty to breaching s3(1) HSWA at a hearing at Winchester Crown Court.

The investigation followed an incident on 2 February 2006 at Biffa's Eversley Depot, a rubbish and reclamation site at Star Hill in Eversley, Hampshire. Mr Smith was selecting and removing potentially valuable waste items from the rest of the rubbish, known as 'totting'. While doing this, he was run over by a large mechanical shovel loader which was moving backwards and forwards through the area Mr Smith was working in. At least one of the wheels of the heavy machine rolled over him, causing fatal crush injuries. He later died in hospital.

Nina Judkins, HSE Inspector, said:

"This was an extremely serious incident resulting in the tragic death of a man. This incident could have been avoided if the working practices had separated moving vehicles from people on foot. During the period between 2005-07, there were four fatal incidents in which people were hit by shovel loaders in a sorting or transport facility. Companies need to carefully assess tasks such as sorting waste by hand to make sure no one is at risk of being hit by a vehicle."

Tragic Noise

Laing O'Rourke Construction South Limited, based in Dartford, has been fined £135,000 and ordered to pay costs of £18,313.10, after pleading guilty to a breach of s3(1) HSWA.

The incident happened on 9 August 2004, when Mr Deeney was working as a steel worker at a construction site on the Jemstock Project, off Marsh Wall on the Isle of Dogs, Tower Hamlets. He was working on a core - a concrete pillar within the structure of a building - on a jumpform, a system that allows the construction of internal walls, slabs and beams ahead of the structural walls. No one witnessed the incident, but a colleague who was working nearby heard a loud bang, and looked through a hole in the deck, which was previously covered with plywood. The fellow worker looked through the hole and immediately noticed Mr Deeney's body in the basement level of the core. Mr Deeney died as a result of this fall.

HSE Inspector Dominic Elliss said:

"The risks of working at height and the need to manage voids in platforms are well-known

and falls from height remain the most common cause of death in the construction industry. This case highlights the need for robust systems for the covering of voids together with regular effective site inspections to prevent such unacceptable loss of life.”

The HSE investigation showed that risk assessments and method statements had been carried out on site, but weekly and monthly checks, identified as necessary by these assessments, were not being adequately carried out. The hole in the core had been covered inadequately with poor quality plywood, and managers on site were not aware of this, nor who had covered it. In addition, the systems in place failed to ensure that there was sufficient edge protection within the jump form to prevent falls and that the area was kept free from hazards. Following the incident, a prohibition notice was served, immediately stopping work in the core due to the risks of trips and falls.

Fatal Crush!

Avery Dennison Materials UK Ltd, based in London, has been fined £75,000 and ordered to pay costs of £50,000 after they pleaded guilty to breaching s2 (1) HSWA.

The investigation followed an incident in June 2005, at the Milton Keynes Distribution Centre in Brudenell Drive, in which a worker was crushed between a large roll of paper, weighing over one tonne, and a paper slitting machine. The worker later died of his injuries.

Andrew Moore, HSE Inspector, said:

“Avery Dennison Materials UK Ltd had an unblemished health and safety record until this incident. This case shows that being lulled into a false sense of security by the fact that an incident has never occurred before can prove fatal. This preventable fatality shows the need for rigorous risk assessments. Employers must consider and assess how heavy loads with the potential for serious injury are moved and restrained. We would urge senior managers in such large organisations to remain vigilant in order to ensure a good health and safety culture is maintained and that necessary precautions are put in place to protect workers from injuries and even death.”

Some never learn

The Amtico Company Limited, Kingfield Road, Coventry, has been fined £75,000 and ordered to pay £23,721 after pleading guilty to breaching s2(1) HSWA at Coventry Crown Court. It is the third time HSE has prosecuted the company for failing to guard moving parts of machinery. It comes after an employee at the West Midlands based ‘The Amtico Company Ltd’ lost a finger.

On 25 September 2007, an employee was working on a ‘calendar machine’, which consists of a number of heated rollers that stretch flooring material. A strip of material failed to fall onto a return conveyor and the employee went under the machine to cut it away, but his

left glove became caught between the high-speed rollers. The employee lost his ring finger, and suffered crushing and burn injuries to his other fingers and forearm. At the time of the incident, there was no guard to prevent access to the dangerous moving parts of the machine.

Prosecuting HSE Inspector Jenny Skeldon said:
“This man has suffered life-changing injuries, companies should consider all the risks associated with this type of work to prevent something like this happening.”

Finger Amputee

Sunrise Medical Ltd has been fined a total of £500 and ordered to pay costs of £2,287.76 by Halesowen Magistrates’ Court after the company pleaded guilty to breaching reg11(1) PUWER. The prosecution follows an investigation into an incident that occurred on 2 June 2008 at the company’s premises.

An employee was using the machine to de-burr holes in part of a wheelchair frame when his cotton glove got caught in the unguarded rotating de-burring tool on one of the company’s pedestal drills. Sunrise Medical failed to ensure that effective measures were taken in order to prevent access to dangerous parts of machinery during the de-burring task.

Speaking after the case, HSE inspector Jenny Skeldon said:
“The dangers of using machines without suitable safeguards are well known and long-established. Even in companies that generally have a responsible attitude to health and safety, serious injuries such as amputation can easily result when limbs, or parts of limbs, become entangled in rotating parts of machinery. It is important for companies to ensure that they have fully considered all the risks associated with the tasks carried out at machinery. This will allow them to identify the most appropriate and effective control measures in order to prevent access to dangerous parts of machinery.”

Roof Void

Fine Construction UK Ltd, based in Walton-on-Thames, Surrey, has been fined £15,000 and ordered them to pay costs of £8,091.99 after pleading guilty to breaching s3 (1)HSWA.

The investigation followed an incident on 22 February 2008, at a site in Popes Lane, London W5, in which a builder fell 3.3m. The worker was involved in building an extension to a domestic property when he fell through a roof light void.

There was no boarding to cover the roof lights and no crash deck underneath to limit the impact of a fall. The employee suffered serious back injuries as a result of the fall and no longer has use of his legs.

Kevin Shorten, HSE Inspector, said:

“Forward planning, vigilance and a willingness to spend time and money on suitable safeguards could prevent incidents like this one and avoid the personal and financial trauma associated with them.”

Crane fall

MES Environmental Ltd has been fined a total of £8,000 and ordered to pay £3,532.55 costs by Wolverhampton Magistrates’ Court after the company pleaded guilty to breaching s2(1) HSWA and reg4(1) of the Work at Height Regulations 2005.

It follows the HSE’s prosecution of MES Environmental Ltd, of Crown Street, Wolverhampton, after a 40-year-old employee suffered serious injuries as a result of falling about 6m from an overhead crane onto a concrete floor.

On 19 June 2008, the man was working on the cross travel beam of the crane to clean built up dirt when he fell, suffering multiple fractures to his skull, a broken collarbone and several broken ribs. He remained in hospital for several weeks after the accident due to doctors’ concerns over swelling on his brain, and has not yet returned to work.

HSE inspector David Evans said:

“Falls from height remain the single biggest cause of workplace deaths and one of the main causes of major injury, but the vast majority of these accidents are preventable if companies assess the risks properly. The most common causes of falls from height involve failure to recognise a problem, provide safe systems of work, ensure that these systems are followed and provide adequate information, instruction, training or supervision. There really is no excuse for this.

Ed – Injuries from falls are an all too common occurrence and appear regularly in BRN, more must be done to ensure the safety of employees working at height

Care on Fragile roof

Keen Construction Ltd, based in Downton near Salisbury, has been fined £6,600 and ordered to pay costs of £3,625 after pleading guilty to contravening reg9(2) Work at Height Regulations 2005.

The investigation followed an incident in Lambourn, Berkshire in September 2007 in which a worker fell 5.5m through a fragile single skin asbestos cement roof. There were no crawling boards in use and no safety net or crash desk below the working area of the roof. The victim suffered broken ribs and injuries to his pelvis, vertebrae and lung. He was unable to return to work for over a year.

HSE inspector Meurig Rees Williams, said:

“By any standards, this was a very serious incident. The injured worker suffered long-term injuries after falling five and a half metres and is lucky to be alive. There are safe ways of carrying out this work and guidance is freely available on the HSE and industry websites.”

Roof Works

Thornett Mechanical Services Ltd, of Napier Street, Coventry, has been fined a total of £2,500 and ordered to pay costs of £2,151 by Coventry Magistrates' Court after the company pleaded guilty to breaching health and safety legislation.

HSE brought charges against the company under Regulation 4 and Regulation 6(3) Work at Height Regulations 2005 following its investigation into the incident on 2 December 2008 at a unit in Bilton Industrial Estate, Coventry.

The employee was constructing the roof of an acoustic booth at a height of 3.5 metres. Access to the roof was via a mobile tower scaffold. To undertake the roof work, it was necessary for the employee to work on the roof and use two planks to kneel and stand on. He was kneeling on the roof perimeter when his drill bit broke, jolting him forward. As a result, he lost his balance and fell onto a concrete floor.

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

“Thornett Mechanical Services Ltd failed to carry out a risk assessment or plan a safe system of work. This could have involved fabricating the roof at floor level and lifting it into position so that the perimeter fixings could then be undertaken from the tower scaffold, or erecting edge protection around the roof's perimeter as the tower scaffold only covered the width of the booth. The injured man had not been trained to work at height and his supervisor had not been trained to conduct risk assessments. Furthermore, the supervisor had not done any work at height training himself.

Such failures are unacceptable, especially as HSE has published a wealth of advice and guidance for employers to help them reduce the risk of falls from height. HSE has also recently launched the 'Shattered Lives' campaign to raise awareness of slips, trips and falls in the workplace.”

Man's Leg Amputated

Pete Mellor Ltd of Burton on Trent has been fined £12,000 and ordered to pay costs of £2,500 after pleading guilty to breaching s3(1) HSWA for failing to ensure the safety of people not in their employment. They also admitted breaching reg3(1) Management of Health and Safety at Work Regulations 1999 for failing to make suitable and sufficient risk assessments.

The charges relate to an incident on 11 October 2007 when an employee was repairing a forklift truck at the company's rented premises at Barn Farm in Drakelow, Derbyshire, which involved removing the counterbalance weight. The 1.8 tonne weight was not supported; it fell off and landed on a self-employed worker who was walking past at the time. The weight crushed the man's left leg which had to be amputated below the knee.

HSE Inspector Samantha Farrar said:

"The incident resulted from an unsafe system of work. The weight was not supported during removal and the person carrying out the repair had been given insufficient information and instruction. Also, the injured party was allowed to walk through the work area. A risk assessment for the job was not carried out. A suitable and sufficient assessment would have addressed all of these issues and a man may not have been left with a life-changing disability."

Overhead Power Lines

Thomas Thomson (Blairgowrie) Ltd, Bramblebank Works, Blairgowrie, and managing director Thomas Peter Mackie Thomson have been fined a total of £10,800 after pleading guilty to breaches of health and safety law.

Thomas Thomson (Blairgowrie) Ltd pleaded guilty to breaching s2(1) HSWA and was fined a total of £9,000 for failing to provide a safe system of work. This was reduced from £12,000 due to a guilty plea being tendered.

Mr Thomson pleaded guilty to a breach of reg3(1) Management of Health and Safety at Work Regulations 1999 by virtue of s36(1) HSWA, and was fined £1,800. This was reduced from £2,500 due to a guilty plea being tendered. Mr Thomson admitted that due to his default as Managing Director, his company failed to make a suitable and sufficient assessment of the work underneath the power lines.

Mr Gerard Faltynowski, 26, died on 28 July 2006 after metal extension poles he was using to construct the steel frame of a polytunnel came into contact with an 11,000 volt overhead electricity power line on farm land near Blairgowrie.

On the day of the fatality, a team of employees, including Mr Faltynowski and 11 other migrant workers, were working in a field, starting to erect the steel frame of a polytunnel across which ran three overhead power lines carrying 11,000 volts of electricity. Short metal pieces measuring approximately 0.5m, were to be attached to each end of the metal hoops from which the tunnel was being constructed. Mr Faltynowski needed to bring a number of the extension pieces up the field and he slotted 13 together and carried them vertically.

The topmost extension piece touched the overhead power lines and Mr Faltynowski was electrocuted.

Following the fatal incident, HSE issued a Prohibition Notice to stop work being carried out so close to low overhead power lines.

HSE Inspector Lawrence Murray said:

“Mr Faltynowski’s tragic death was entirely preventable and arose from clear failures to assess and manage the risk of working close to or under overhead power lines. A suitable and sufficient risk assessment would have identified the danger and the necessary control measures, and a safe system of work would have ensured the safety of the employees. Despite receiving a warning from an electricity linesman who witnessed work being carried out under the lines just days before, the construction of the polytunnel’s metal frames continued. Work which risks contact with overhead power lines should not take place within nine metres either side of a live power line. If it was not possible for the line to have been de-energised for the duration of the work, the polytunnels should not have been erected there. On average two people are killed and many more are injured every year when they come into contact with overhead power lines during agricultural work. Machinery and equipment does not need to touch power lines for electricity to be transmitted because electricity can arc or jump across gaps. Farmers should be reminded that it is not just machinery that conducts electricity, a jet of water or liquid slurry; a piece of metal or fishing rod may also do the same.”

Council Shock

London Borough of Havering’s Street Care Department, based in East London, pleaded guilty to breaching s2(1) HSWA. The court fined the local authority £10,000 and ordered them to pay costs of £9,810.

The investigation followed an incident in Main Road, Romford on 5 December 2007, where a worker suffered flash burns and electric shock. While the untrained worker was installing a bench, they were using a hydraulic breaker to dig holes and struck a buried 11,000 volt cable in the pavement.

John Crookes, HSE Inspector, said,

“This incident could have been fatal. London Borough of Havering failed to provide a safe system of work as a result of which a temporary council worker was injured.”

Dumper Disaster

Shorts Group Ltd pleaded guilty to breaching s 2(1) HSWA at Maidenhead Magistrates Court and has been fined £5,000, and ordered to pay costs of £1,772.80.

The prosecution followed an incident on 21 May 2008 at a construction site in Bracknell Road, Warfield, where a demolition labourer was operating a skip-loading dumper on which

he had received no formal training or instruction. During the course of his work, the dumper overturned and the employee became trapped underneath it, sustaining serious injuries to his foot as a result.

Karen Morris, HSE Inspector, said:

“The company failed to provide this employee with suitable instruction, information and training, and this was clearly a contributory factor to this incident. Site dumpers are involved in around a third of construction transport incidents, causing many deaths and serious injuries, particularly to drivers. Skip-loading dumpers in particular are known to be comparatively unstable machines and are known to overturn in certain circumstances, creating a significant risk if they do so. Given this, HSE has produced clear guidance on training and safe operation of site dumpers, and therefore we expect trained and competent operators at all times.”

Cutting injuries

JBM International Ltd, of Kingsilver Refinery, Hixon, Staffordshire, has been fined a total of £5,000 and ordered to pay costs of £2,614 by Newcastle-under-Lyme Magistrates' Court after the company pleaded guilty to two charges of breaching health and safety legislation.

The HSE brought charges against the company under reg11(1) PUWER and reg3(1)(a) Management of Health and Safety at Work Regulations 1999 following its investigation into an incident that occurred, on 27th September 2008, on the company's premises.

A 34-year-old employee was investigating a possible blockage to the dust extraction unit by removing the collection bag and reaching up with his left hand to the exit opening of the extraction unit's rotary valve when his hand was severely damaged by the blades.

Speaking after the case, HSE investigating inspector Ian Williamson, said:

“Being able to easily access moving parts of the machine represented an obvious danger which meant that it was reasonably foreseeable that an injury could occur whilst reaching into the opening. The machine had been in operation for 10-15 years yet it had evidently not been subjected to a suitable risk assessment because it had not been engineered in any way to protect operatives. It is important for companies to ensure that they have fully considered all the risks their employees may face when using any equipment and the injuries could have been much worse.”

Rack Collapse

International Automotive Components Group Ltd, of Highway Point, Gorse Lane, Coleshill, Birmingham has been fined a total of £3,200 and ordered to pay £2,636 in costs after pleading guilty to a breach of reg 20 PUWER at Sunderland Magistrates Court. It was also

ordered to pay a £15 victim surcharge.

The incident took place at the company's premises in Wayfarer Road, Southwick, Sunderland on 16 August 2008. Trevor Rollin became trapped after a tooling rack collapsed while he was using an overhead crane to unload tools from the rack. Mr Rollin suffered multiple fractures, cuts and bruises.

HSE Inspector Fiona MacNeill, said:

“Mr Rollin was lucky not to have been killed by the racking which overturned. Employers should learn a lesson from this incident - that the safety of work equipment cannot be taken for granted. Safety does not manage itself. Risk management is a proactive process and employers should assess and prioritise the more serious risks in their premises.”

Ed – The company breached regulation 20 of the Provision and Use of Work Equipment Regulations 1998 in that they failed to ensure that the single bay of tool racking used for the storage of service tools adjacent to machine 8 was stabilised by clamping or otherwise where necessary for the purposes of safety.

Soak up causes Burns

St Bede's Catholic Science College, of Tollfield Road, Boston, admitted failing to plan the work properly and failing to give the builders proper instructions for the work. The college has been fined £2,000 and ordered to pay costs of £ 900 by Skegness Magistrates court. The injured man's employers, R Harvey Builders, of Redstone Industrial Estate, Boston, admitted failing to carry out a risk assessment, and were fined £1,000 and ordered to pay £800 costs.

The HSE brought the prosecution after an investigation into a fire at the school on 7 September 2007 when the man was injured. Sawdust had been used to soak up waste oil from a tank being removed but when the builders cut up the tank with an angle grinder, sparks set it alight. The fire service had to be called to put out the fire and students were evacuated.

Nottingham HSE inspector Jo Anderson, who investigated the case, said:

“This case highlights the extra need to work safely at schools, and to plan properly so all the risks are taken into account. If the school and the builders each knew what the other was doing, this incident would not have happened, and the worker would not have been injured.”

Asbestos

Dave Lee Limited of Monmouth Road, Westonzoyland, has been fined a total of £1,100 and ordered to pay costs of £500 after pleading guilty to breaching reg 5 and 11 (1) Control of

Asbestos Regulations 2006.

Dave Lee Limited was subcontracted by the school to carry out refurbishment work during the 2007 school summer holidays. This work included the removal of walls and doors which damaged overhead firebreaks containing asbestos. Dave Lee Limited was not licensed to remove asbestos and failed to identify its presence, thereby exposing its employees and others in the school to risk through disturbance.

HSE inspector Sue Adsett, said:

“It was very fortunate that in this particular case, the Local Education Authority was able to remove the risk to schoolchildren and staff before they returned to school - although, of course, the workman involved in the initial refurbishment work were exposed to significant risk. This case highlights the need to use licensed asbestos contractors, rather than general builders, when removing asbestos products, and the need to ensure that professional and competent project managers are in place to oversee the work. Just as importantly, this case also emphasises the need for the contractors themselves to ensure that they are appropriately licensed to carry out the work and that there are serious penalties for not doing so.”

Unregistered Gas

Mr Baker, of Haylands, Portland, has been given a two year conditional discharge (due to his limited financial means) and ordered to pay £100 towards the prosecution costs after pleading guilty to breaching reg 3(3) and 3(7) Gas Safety (Installation and Use) Regulations 1998. It follows works on a number of properties in Weymouth and Portland, Dorset, at periods of time between November 2006 and October 2008, while he was unregistered with CORGI and falsely claiming to be an approved member of that body.

Alan Baker pleaded guilty to breaching regulation 3(3) Gas Safety (Installation and Use) Regulations 1998. Baker also pleaded guilty to breaching regulation 3(7) Gas Safety (Installation and Use) Regulations 1998 in that he did falsely pretend to be a member of a class of persons approved by the Health and Safety Executive for the purpose of carrying out work on gas fittings, whereby the said person is guilty of an offence as provided by section 33(1)(c) of the said Act and liable to a penalty as provided by Section 33(3) of the said Act as amended.

Speaking after the hearing, HSE inspector Joanna Teasdale, said:

“This case highlights the importance of using a trained and approved engineer for all gas work. The industry approval body has just changed hands from CORGI to the Gas Safe Register and people now need to check for Gas Safe registration when employing an engineer. All gas appliances should be serviced and maintained by a Gas Safe Register engineer at least once a year and any advice given by such a trained professional needs to be followed. If anyone has any concerns about work done on their appliances, they should

get a registered engineer to check them - with gas, you might not get a second chance!"

Inflatable Safety

In June 2006, safety concerns expressed by Shrewsbury & Atcham Borough Council, regarding the safety of inflatable play devices, sparked HSE's investigation into the validity of safety certificates and inspections carried out by Peter John Morrell.

HSE's investigation uncovered instances, at Watton in Norfolk, Spennymoor in County Durham and Kingston-on-Thames, where Morrell had issued 'pass' certificates for inflatables, despite there being safety-related faults. In November 2008 HSE issued a Prohibition Notice on Peter Morrell legally preventing him from conducting further inspections until he has complied with the 'Schedule to the Notice'.

HSE pursued its investigation of three specific instances in order to bring a prosecution case before the courts.

Several deficiencies noted with the inflatables showed that Morrell's inspections were not carried out in accordance with the relevant BSEN (British & European Standard). This standard is not the law but following it would usually be sufficient to demonstrate compliance with the law. Although Morrell operated as an 'Inspector of Inflatables' he was not registered with any of the recognised authorities for the Inspection of Play Inflatables and Amusement Devices (such as PIPA and ADIPS) nor did he demonstrate his competence in any similarly accepted manner.

Morrell (74), of Prestatyn, pleaded guilty at Shrewsbury Crown Court on Friday 15th May, 2009, to three charges of breaching s3(2) HSWA.

The judge imposed a conditional discharge of 12 months for the breach in the Kingfisher Centre, Kingston-upon-Thames and two years for each of the instances in County Durham and Norfolk. These conditional discharges are to run concurrently and the judge voiced that such serious health and safety breaches, aggravated by the risks to young children, would normally attract a substantial financial penalty but this was "not possible" given the state of Morrell's personal finances which also reflect his inability to receive remuneration from inspecting inflatables due to the Prohibition Notice served on Morrell by HSE.

HSE inspector Janice Dale said:

"Employers and those who are self-employed have a responsibility to ensure the safety of people who are not their employees. The legal onus to arrange regular checking of equipment, by an appropriately qualified body, lies with the operators of that equipment. In addition, anyone issuing safety certificates for unsafe inflatables could be risking the health and safety of young children enjoying a moment of leisure and pleasure. Morrell had certified inflatables as safe for use, when they were not. Disregard for the safety of children

is a serious matter and is also an irresponsible attitude that could have endangered others.”

Radioactive contamination

The HSE is to prosecute Sellafield Ltd for alleged breaches of health and safety law. It follows an investigation into the exposure of two contractor employees to airborne radioactive contamination on 11 July 2007 at Sellafield Nuclear Licensed Site in Cumbria.

The two contractors were exposed during the decontamination of an area of concrete floor. As a result of this exposure the two contractor employees received an internal dose of radiation.

Criminal proceedings have been commenced against Sellafield Ltd for an offence of failing to discharge its duty under s3(1) HSWA.

The initial court date has been fixed for 10:00am on 24 July 2009 at Whitehaven Magistrates' Court, Catherine Street, Cumbria. The prosecution of Sellafield Ltd in relation to this incident is now a matter for the Court. HSE are unable to comment further on the decision to prosecute.

New Health and Safety Role

A Yorkshire businesswoman is to chalk up a decade of championing better safety and health in the workplace - becoming the longest serving board member of the HSE.

Judith Donovan, from Ripon, was appointed to the Health and Safety Commission (HSC) in 2000. When HSC and HSE merged on 1 April 2008 she became a board member. Board members are appointed for a maximum of 10 years and Judith has had her appointment extended until 2010, the Secretary of State for Work and Pensions has announced.

A successful marketing consultant and author, Judith is one of nine non-executive board members at Britain's national regulator for health and safety.

Judith Hackitt, HSE Chair, said:

“Judith brings an enormous amount of specialist insight and practical experience and in conjunction with board colleagues she has been integral to the development of our forthcoming strategy. Judith's reappointment ensures we have robust strategic direction and provides us with continuity - an essential factor as we face the challenge of making Britain's workplaces safer.”

Judith Donovan said:

“I am delighted to have the opportunity to remain involved in HSE work. Workplace safety is a significant issue in Great Britain. Even today, there are far too many people who are injured at work or suffer from work-related illness. More than 200 people a year die in their workplace. As well as constituting deep, personal tragedies, these incidents have a huge

financial and reputational impact on the businesses concerned. I believe good health and safety practice is also good for business.

As the appointed board champion for agriculture, which is one of the most dangerous sectors to work in, I am determined to push for heightened awareness - and better practices - of health and safety in farming communities.”

Farming Machinery

The HSE has warned farmers of the dangers of baling machinery following the deaths of two Staffordshire farmers. The inquests into the deaths of Anthony Mardling, aged 61, of Hilderstone, Stone, and Malcolm Bennett, aged 50, of Grove Lane, Doveridge, recorded verdicts of accidental death.

Mr Mardling died after being pulled into baling machinery on 29 August 2008 at a farm near his home, while Mr Bennett was fatally injured when he was struck by a part of a baling machine on 21 September 2008 at a farm near Abbots Bromley, Staffordshire.

HSE said the accidents were unlikely to have happened if the farmers had followed the “safe stop” procedure, the most important safety action which involves putting the handbrake on, putting any controls into neutral and safe and turn the engine off with the keys removed.

Clive Brookes, HSE’s Principal Inspector for Agriculture in Staffordshire, said:

“Almost every week, someone dies in a needless farm accident. These accidents don’t just destroy lives; they destroy whole families, and often their farms too. In these difficult financial times, farmers might be tempted to take risks to save money by cutting back on help or taking short cuts. We want farmers, their families and their helpers to be aware of the dangers around them and to work safely.”

Farming is one of the most dangerous ways to make a living in Britain. Less than 1.5 per cent of the working population is employed in agriculture, yet the sector is responsible for between 15 per cent and 20 per cent of fatalities to workers each year.

Asthma risk in British bakeries

The HSE has announced thousands of British bakers could be at risk of developing asthma unless they take sensible precautions. Bakers are about 80 times more likely to develop occupational asthma than the average British worker.

Workers exposed to flour and other bakery dusts can develop asthma unless sensible precautions are taken. Shortness of breath, wheezing and painful coughing are just some of the symptoms that occupational asthma sufferers may have to deal with every day.

To mark World Asthma Day – Tuesday 5 May – HSE is sending bakeries copies of a pocket card containing advice for workers on what they can do themselves to protect their health. The card gives examples of good working practices.

HSE estimates that some 27,000 of the 100,000 workers in the British baking industry will regularly be working with flour as an ingredient.

Steve Coldrick, the Director of Disease Reduction at HSE, said:

“Flour might seem harmless compared with chemicals used in other industries, but the truth is that unless it is handled correctly it can lead to serious health problems. In extreme cases sufferers of occupational asthma may not be able to return to work. By using the correct equipment and making simple changes to working procedures this condition is entirely preventable.”

- Exposure to flour and bakery dust should be kept to a minimum and ensuring good house keeping will help keep this in check, HSE advises. Other key recommendations include:
- Handle flour and powdered products carefully. Dropping flour from a height or throwing with force will create dust clouds.
- Use sprinklers to spread dusting flour rather than hand throwing.
- Clean up spillages immediately. Do not use airlines or brushes to dry sweep dust. Use high efficiency industrial vacuum cleaners for general cleaning. Shovel up large amounts gently.
- Take care to avoid raising dust while loading ingredients into mixers.
- Start up mixers on slow speed until wet and dry ingredients are combined.

One in five construction sites fail health and safety checks

Recently released figures have revealed one in five construction sites failed health and safety checks during the latest national inspection initiative carried out by the HSE. HSE Inspectors visited 1759 refurbishment sites during March and checked on how 2145 contractors were complying with health and safety regulations. On 348 sites sufficiently serious risks were discovered to warrant enforcement action being taken – either stopping work immediately or ordering improvements to be made. Close to five hundred enforcement notices were issued.

HSE said that improvements had been witnessed by its inspectors in certain parts of the country since last year – when inspectors had to take enforcement action on 30% of the sites visited.

Phillip White, HSE’s new Chief Inspector of Construction, said:

“This inspection initiative was well publicised and for our inspectors to still find this level of disregard for basic health and safety standards on refurbishment sites is disappointing. While any improvement has to be welcomed, our inspectors still found practices so far below the acceptable standard that they felt it necessary to take enforcement action on one in five sites. This is still very worrying.”

Rude Awakening

A director of a bed company whose dealings cost creditors almost £200,000 has been

sentenced to a 12 week suspended prison sentence and 150 hours of community service by Bishop Auckland Magistrates Court. He was also banned from holding the position of director in any company for three years. This follows a prosecution by the Department for Business under the Insolvency Act 1986.

Paul Edward Raine, of Windermere Court, Darlington pleaded guilty to the charge of acting as a director of a company known by a prohibited name.

In February 2007 Mr Raine's company Furntex Ltd entered voluntary liquidation, owing over £500,000 to creditors. Raine however tried to hide this under the mattress; illegally resurrecting the company under the name of Dreamsleeper Ltd. Raine's "new" venture failed and was placed into liquidation in August 2008.

In passing sentence, Magistrates expressed the view that this was a serious and deliberate breach of s216 Insolvency Act.

Biffa in breach

Biffa Waste Services Limited which operates a hazardous waste installation at Wednesbury Waste Management Resource Centre, Potters Lane, Wednesbury, has been fined £71,515 in fines and costs for breaching their permit conditions on Friday 22 May.

The Pollution Prevention and Control Regulations are designed to ensure that such sites that deal with hazardous waste are run in a manner that does not present a risk of pollution to the environment. The three charges related to the poor storage of containerised hazardous wastes and inadequate management of third party contractors.

The company was fined £60,000 and ordered to pay £11,500 in costs. The charges were brought by the Environment Agency under the Pollution Prevention and Control (England and Wales) Regulations 2000.

For the Environment Agency, Counsel Barry Berlin told the court that Biffa Waste Services Limited held a Pollution Prevention and Control (PPC) Permit (now an Environmental Permit) which authorises the treatment and transfer of hazardous wastes at their site in Wednesbury. They are obliged to follow their permit conditions which include incorporated Best Available Techniques (BAT) in the form of the Environment Agency's guidance to the waste treatment sector.

The first incident occurred on 23 November 2006. A contractor, for KPH Environmental, working on Biffa's Wednesbury site, carried out work on a tank which resulted in the partial collapse whilst other contractors were working close by; the appropriate permits to work were not held by the contractor. There were neighbouring tanks of hazardous waste within the area at risk of damage with the potential release of polluting chemicals.

The Environment Agency served Notices suspending the use of adjacent tanks and requiring

improvements to management procedures for site security and contractor management. Biffa complied with the enforcement notice and the suspension notice was lifted in late January 2007. Biffa have the ultimate responsibility for the actions of all contractors working on their site.

The second incident occurred in March 2007 when an audit of containerised waste storage was conducted. The audit identified several significant breaches of the permit including; improper storage of incompatible wastes, discrepancies between site layout plans, signage and storage, spillages of waste and inadequate labelling. The Environment Agency served an enforcement notice at that time.

A further inspection of the transfer station was carried out at Wednesbury on 21 May 2007 which identified non-compliance of the enforcement notice, and on 11 June 2007, where there were noticeable improvements in standards. The Environment Agency inspected again on the 26 July where further non-compliances were seen.

Speaking after the case Iain Storer, an Environment Agency officer involved in the investigation, said: "This result highlights the need for operators of hazardous waste installations to comply with their permits, the conditions of which have been designed to prevent accidents or incidents occurring, or to minimise the potential impacts of any that do occur. I'm pleased to report that standards at the Wednesbury site are now greatly improved."

Water Woes

United Utilities has been fined £10,000 and ordered to pay costs of £2966.79 after pleading guilty to the offence of causing sewage effluent to be discharged into controlled waters in September 2007. Sewage was discharged into Hey Brook, Abram. The pollution occurred due to a pump failure at Hindley pumping station, at Hindley, near Wigan.

The Court heard that the Environment Agency were contacted by a member of the public who reported that Hey Brook had turned grey in colour and was teeming with dead and dying fish. There was also a smell of sewage in the area.

A pump failure at Hindley pumping station caused sewage to flow into storm overflow tanks, instead of being pumped to the sewage treatment works as would normally happen. As the volume in the tanks increased, sewage overflowed into neighbouring Hey Brook. Over 5,000 cubic metres of sewage was discharged into Hey Brook, affecting approximately 6 kilometres of the Brook from Hindley pumping station to Pennington Flash, a local lake and nature reserve.

There may have been some localised effect on Pennington Flash, but it is likely that the size of the lake would have acted to dilute the effluent and minimise any impact. Investigations carried out by Environment Agency officers indicated that the pollution had a significant impact on the ecology of Hey Brook and over one hundred fish were killed.

United Utilities has consent, at Hindley pumping station, however this only permits the company to discharge storm sewage into Hey Brook when the flow in the sewer is high, such as during periods of heavy rainfall. In these circumstances, any sewage discharge would be diluted by rainwater and the Brook would also be in high flow. It may also discharge emergency overflow if there is a total failure of the power supply. This incident was not permitted under the company's discharge consent.

Gordon Whitaker, Environment Manager said:

"This was a serious incident which damaged the eco system of the Brook, killing fish and invertebrates, and resulting in an unpleasant smell. United Utilities own and operate the sewer network throughout the region and are responsible for resolving any problems with this system. This incident caused significant damage to the environment, which could have been avoided."

Hot Water Safety

New measures have been announced which mean all new homes will feature inbuilt protection from hot water scalding in baths and will use water more efficiently. From October this year all new build homes will have protective devices fitted to baths to limit hot water temperature, and will need to meet a new minimum standard of 125 litres of water per person per day to improve water efficiency.

Amendments to Part G (sanitation, hot water safety and water efficiency) of the Building Regulations have been laid before Parliament.

Iain Wright said:

"Hot water scalding in baths is a real risk particularly for groups like children and the elderly and the Government has been committed to finding a way of doing more to protect people from these injuries. The measures I announced today for all new build homes will limit the temperature of hot water in baths, which is where the vast majority of scalding injuries occur. This will really help to protect vulnerable people."

The main amendments proposed to the Building Regulations are the requirement that baths in new homes are fitted with protective measures, such as a thermostatic mixing valve, to limit the temperature of the hot water. A new water efficiency standard of 125 litres per person per day for new homes. Extending existing safety measures to all types of hot water systems (not just vented systems), and creating a system where grey water and harvested rainwater can be safely used.

Iain Wright added:

"Homes account for a quarter of the country's carbon emissions so it's essential we tackle this as part of our efforts on climate change. Water plays an important role in making homes more sustainable, and the measures we announced today will help make new homes even greener as part of our commitment to zero carbon homes from 2016."

Heat wave advice

The Department of Health has released new advice to help people with respiratory problems cope in a heat wave. The Heat wave Plan has been updated to advise those suffering breathing problems that although ozone levels increase in hot weather, they drop in the evening. People with respiratory problems should stay inside during the hottest part of the day and windows should be kept shaded and closed when the temperature is hotter outside than inside.

The benefits of insulating against both heat and cold are outlined, with information on grants that are available from government. Providing cavity insulation in houses helps keep the heat out during summer, as well as keeping homes warm and reducing fuel costs and carbon emissions during colder weather.

Yvonne Doyle, Regional Director of Public Health (South East Coast) said:

“The heat wave plan urges carers to identify those most at risk before the hot weather begins. Once level 2, ‘Alert and Readiness’ has been triggered, those running care homes are urged to take extra care. They should monitor indoor temperatures four times a day, prepare cool areas, ensure there is enough staff to keep residents cool, identify those at greatest risk and make sure everyone has access to cold water and ice.”

Wayne Elliott, head of health forecasting at the Met Office said:

“The Department of Health’s Heat wave Plan is a vital part of the country’s preparation for coping with extreme temperatures. The prolonged spells of hot weather that can happen each summer, particularly in our towns and cities, are a very real concern for vulnerable groups.”

The alert levels are now described from Level 1-4, but are also given colours that mirror the traffic light system.

The four levels are:

Level 1 - Summer Preparedness and Long-term Planning: Green

Level 2 - Alert and Readiness: Amber

Level 3 - Heat wave Action: Red

Level 4 - Emergency: Red Emergency

Fit Note Sick Note

The DWP has announced a new medical ‘fit note’ to replace the current ‘sick note’ and help more people stay in work rather than drift into long term sickness along with a twelve week consultation on its design.

The new ‘fit note’ aims to enable people to get the best possible advice about staying in work, and if they can’t work what their employer can do to help them return to work sooner. For example, if the employee has a problem with mobility, suggesting a job where

they can work sitting down rather than standing up.

Lord Bill McKenzie, Work and Pensions Minister, said:

“Employers tell us that managing sickness absence can be a challenge. This is compounded by a ‘sick note’ system that makes sickness absence a black and white issue - either you are unfit for work or you are not. We recognise how important it is to help people who are sick to stay in work or get back to work quickly - the new fit note will help do just that.”

Developed with the support of healthcare professionals, employer representatives and trade unions, the new ‘fit notes’ will roll-out across Great Britain in the Spring of 2010. Our goal is that under the new system ‘fit notes’ will be computer-generated in GPs surgeries, replacing the current hand written version.

Archer Inquiry

In a Written Ministerial Statement, Public Health Minister Dawn Primarolo set out the Government’s response to the Archer Inquiry into individuals infected by HIV and hepatitis C through infected NHS blood and blood products.

The response included a significant increase in annual payments to £12,800 for individuals infected with HIV, in addition to the £45 million already given out in lump sums and discretionary payments. It also included further support for the Haemophilia Society of £100,000 per year for the next five years and a commitment to review the financial relief for individuals affected by hepatitis C in five years.

Tough measures are already in place to prevent similar events happening in the future. To ensure all patients with bleeding disorders who may have been infected have been identified, a look back exercise will be undertaken.

Minister for Public Health, Dawn Primarolo said:

“I would like to offer my deepest sympathy to all those who suffered in this tragic episode. Sadly, it was not possible to effectively test for these viruses in the 1970s and early 80s and we deeply regret that these events occurred following NHS treatment. Steps to safeguard blood products against HIV and hepatitis C have been in place since 1985. Every reasonable step to minimise risks from blood transfusion has been taken and robust screening measures are in place to protect patients.

In addition to the £150 million already given out in lump sums and discretionary payments to those infected with HIV and hepatitis C, financial help for those infected with HIV will rise to £12,800 per year.”

Irresponsible Drinking

The Home Secretary has announced a ban on irresponsible drinks promotions including “all

you can drink for £10”, speed drinking competitions and “dentist’s chairs” - pouring alcohol directly into people’s mouths – in a proposed new mandatory code on alcohol sales. The proposed mandatory code of practice for pubs, clubs, off-licences and supermarkets is the latest step in the Government’s plans to tackle alcohol-related crime and disorder and harm to health which costs the UK up to £13 billion every year.

The proposals take a two-tiered approach with a small number of mandatory conditions for all alcohol retailers, which will ensure consistent good practice alongside new discretionary powers for local authorities to tackle problem premises where irresponsible drinking could put individuals at risk and lead to crime and anti-social behaviour.

Any premises that breach the mandatory code or local discretionary conditions that have been imposed would face a range of possible sanctions including losing their licence, having additional tough conditions imposed on their licence or, on summary conviction, a maximum £20,000 fine and/or six months imprisonment.

Home Secretary Jacqui Smith said:

“Alcohol-related crime and disorder costs the UK billions every year in police and hospital resources, not to mention the effect it has on the lives of the millions of decent people who want to enjoy a night out. We do not want to stop the vast majority of people who enjoy a drink responsibly from doing so but this code will crack down on the minority of businesses whose irresponsible promotions fuel the excessive drinking that can lead people into crime and disorder or to risk their own or other’s safety. It is not about penalising the majority who trade responsibly but the Government has a duty to tackle this issue which affects us all.

We have consulted with the alcohol industry to ensure the conditions in the proposed code target the irresponsible practices that most people agree should not be allowed.”

Secretary of State for Health, Alan Johnson said:

“The alcohol industry has a responsibility to help reduce harm from alcohol. This code will give them the framework in which to live up to that responsibility. People must also be able to make informed choices about their drinking habits. Our Units campaign is already giving the facts about alcohol units. Today’s proposals would see all alcohol retailers reinforcing this with information for their customers on the number of units in their drinks and the health risks of drinking too much.”

The Government has decided not to proceed with any national or local measures around minimum unit price as it would punish unfairly the sensible majority of moderate and responsible drinkers. However the consultation commits to developing further the evidence base in this area.

Prompt Payment?

Eleven new high profile companies have committed to sign-up to the Government’s Prompt

Payment Code, and pay their suppliers promptly as set out in their contractual agreements. The companies that have pledged to the scheme include Barclays, Sony UK and B&Q. The pledges were made at a seminar at the Department for Business to promote good payment practice and coincide with the launch of the Government's new information leaflet, 'Paying on time is good for businesses'.

Business Secretary Lord Mandelson said:

"Government has taken the lead with nine out of ten central Government invoices now being paid within ten days - the challenge is now for business to step up and play fair. The promise by FTSE companies to pay on time is very welcome and will hopefully bring an end to the devastating impact which late payments can have on small business".

Business Minister Shriti Vadera went on to say:

"Late payment can be the final straw for small business in the current climate. So the commitment here today by major companies heading up supply chains to pay on time is a win for all businesses".

The Code is just one of a number of Government ideas aimed at establishing a better payment culture and follows on from a commitment made by the Prime Minister in October to pay all central Government suppliers within ten days.

Scarborough is Number One

The reigning champion of the Enterprising Britain competition, Scarborough, is celebrating again after being named the most enterprising place in Europe at this year's European Enterprise Awards. Run by the European Commission, the Awards saw Scarborough take the Grand Jury Prize, making it the overall winner, and in the jury's view, the most creative and inspiring entrepreneurship initiative in Europe.

The seaside town was up against the best of European enterprise, including Finland's capital city, Helsinki; Spain's second biggest port, Valencia; and Liege in Belgium, known for its beer, chocolate and water exports. Despite its population of just 50,000 - tiny in comparison to its competitors - Scarborough's work to encourage people to start-up and grow businesses and create jobs saw it awarded the top prize at a gala dinner in Prague's Zofin Palace on Wednesday evening.

Part of European SME Week, which runs from 6 - 14 May 2009, the European Enterprise Awards recognise outstanding initiatives that support enterprise and entrepreneurship. The awards are inspired by BERR's successful Enterprising Britain competition, which celebrates and rewards the most enterprising places in the UK.

Congratulating the winners, Secretary of State for Business Minister, Lord Mandelson, said:

"A strong enterprise culture inspires communities and creates jobs - something which is vital during these uncertain economic times. I would therefore like to congratulate the Scarborough Renaissance Partnership on their success and in being recognised not just as

the most enterprising place in UK but in Europe”.

Scarborough’s winning bid was led by the Scarborough Renaissance Partnership, a coalition of local entrepreneurs, Scarborough Borough Council staff and residents, which transformed what was a seaside resort in decline into a thriving enterprise hotspot. Achievements include stamping out seasonal unemployment, diversifying to grow new industry sectors and attracting more than £200m of private sector investment.

Finance guarantee scheme extended

Business Secretary Lord Mandelson has announced changes to the Government’s Enterprise Finance Guarantee Scheme to help improve lending to businesses and social enterprises in disadvantaged areas.

The changes should provide extra support to Community Development Finance Institutions by allowing them to access bank loans, worth up to £20m, through the EFG scheme. Community Development Finance Institutions, provide financial support to businesses and social enterprises which are unable to access bank lending due to the higher risk associated with supporting the disadvantaged groups and communities to which they lend.

Lord Mandelson said:

“Community Development Finance Institutions play an extremely important role supporting small businesses and social enterprises in disadvantaged areas. In the current economic climate, these institutions are an increasingly important source of finance and investment for small businesses and social enterprises that have been unable to access finance from banks. These changes to the Enterprise Finance Guarantee Scheme will enable more of these institutions to raise additional lending worth up to £20m.”

The Enterprise Finance Guarantee Scheme currently has more than £344m of eligible applications from 3,071 firms that have been granted, are being processed or assessed. And 2059 firms have now been offered loans totalling over £186m.

Trade credit insurance top up scheme goes live

Firms suffering from a reduction in credit insurance will be able to purchase up to six months top-up cover as part of the Government’s trade credit insurance scheme, announced in last week’s Budget.

Under the scheme, which runs until 31 December this year, suppliers will be able to purchase Government-backed insurance to either restore cover to the original level or double the amount they are able to obtain from the private sector up to the value of £1m (whichever is the lower).

Companies from all sectors and from all stages of the UK supply chain, which have suffered from a reduction in cover from 1 April 2009, will benefit from the increased certainty that this scheme gives - providing real and targeted help for British Businesses.

The scheme was established in response to growing concern from businesses that reductions in the value of insurance cover create pressure on suppliers to shorten payment terms, and can place additional pressure on businesses' working capital facilities.

Business Secretary Lord Mandelson said:

"The Government's Trade Credit Insurance top-up scheme provides a lifeline for businesses to help them address the specific challenges that they are facing as a result of the reduction in trade credit insurance. This scheme is a targeted transitional measure to help companies secure the cash flow they need and restore confidence throughout supply chains. Risk is shared between Government and the private sector striking the right balance between supporting businesses and protecting taxpayers' money."

A maximum of £5bn of top-up cover for trade credit insurance will be available through the scheme, which is part of the Real Help package and will be delivered through the Working Capital Scheme.

Blacklisting

New regulations could be introduced in order to prevent union members being denied employment by secret blacklists. In March the Information Commissioner reported that 40 construction companies had subscribed to a database used to vet construction workers, which has now been closed under data protection law.

Business Secretary, Lord Mandelson said:

"People should not be victimised at work or denied access to employment opportunities because of their trade union membership. Evidence from the Information Commissioner showed there was a problem. There is already legal protection against the misuse of people's personal details. We now plan to strengthen the law by introducing new regulations to outlaw the compilation, dissemination and use of blacklists in this way."

Under the Employment Relations Act 1999, the power to introduce regulations prohibiting the blacklisting of workers for their union membership or activities exists. In 2003 no hard evidence was found that blacklisting was taking place. In response to a consultation, the government committed to reviewing the issue if hard evidence came forward.

The government will launch a consultation in the early summer on revised regulations. As there has already been a full consultation in 2003, this second consultation will be shorter than the usual twelve week period. The short consultation is necessary to ensure that the regulations take full account of developments since 2003 and are up to date and fit for purpose. It will enable interested parties to give feedback on how the regulations can be refined and improved.

Ministers plan to seek Parliamentary approval for the regulations in the autumn and implement them urgently as soon as it can thereafter.

TUC General Secretary Brendan Barber said:

“It is outrageous that unscrupulous employers have been victimising trade unionists through shady blacklisting practices that have no place in a democratic society. I am glad that the Government is now consulting speedily on this issue which will, I hope, lead to quick and effective action to outlaw this utterly unacceptable practice.”

Second-hand Study

A new study into the sale of second hand cars shall be made following concerns about the large number of consumer complaints relating to the sector. Last year, more than 68,000 consumers complained to Consumer Direct about issues with second-hand car sales. Concerns around defective vehicles, services and potentially misleading selling are consistently among the top complaints to the service.

The second-hand car market is large, with sales of approximately £35 billion in 2008, and the level of harm appears substantial: the financial cost of car clocking alone is estimated to be £100 million per annum.

The purpose of the study will be to understand the causes of such high levels of consumer complaints and to consider whether existing consumer protection legislation is sufficient and effective in this sector.

The study will focus on sales by dealers rather than private sales between individuals, but the findings will aim to provide clarity across the wider second-hand car market. The OFT hopes to work closely with the second-hand car industry, local authority Trading Standards Services, consumer bodies and other interested parties.

John Fingleton, OFT Chief Executive, said:

“Buying a second-hand car is a major and potentially difficult purchase, given the fact that many consumers lack the necessary experience or knowledge to make an informed buying decision. We aim, particularly given the current financial climate, to look at the entire process for consumers when buying a second-hand car and whether existing regulation delivers sufficient robustness, confidence and clarity for both the customer and car dealer.”

Car Scams

Vehicle matching scams work by approaching consumers selling their cars and promising falsely to match them with definite buyers. Typically, the seller is cold-called by phone once they have placed an advert in a magazine, on a website or in a newspaper. They are promised that a buyer exists for their vehicle but are required to pay a matcher’s fee up

front before the sale is completed. However, in many cases there is no buyer, the contract with the vehicle matcher cannot be cancelled, and any money paid is lost.

Last year over 1600 private sellers of second hand cars complained to advice service Consumer Direct about the practice, losing between £80 and £99 each, but the true number of victims is thought to be much larger.

The OFT has co-ordinated the sharing of intelligence between different enforcement agencies to target action against traders engaged in unfair commercial practices, assisted on enforcement action, and has organized a day of action with the police, local authority Trading Standards Services and consumer bodies to crack down on the car matching scammers. As part of the action TSS officers are also due to carry out inspections.

The OFT is also working with online and print motoring publications and websites who are members of the Vehicle Safe Trading Advisory Group - including Autotrader, Exchange and Mart, eBay, Pistonheads and Motors.co.uk to put in place clear and prominent warnings for consumers who put their cars up for sale about these scams.

Mike Haley, OFT Director of Consumer Protection, said:

“Time is up for rogue traders who attempt to cheat sellers with false promises of a guaranteed buyer for their cars. We are working with the industry and enforcement partners across the UK to crack down on scammers who are preying on consumers during the economic downturn.”

Retrospective planning permission

In *Ardagh Glass Ltd v Chester City Council & Anor* [2009] EWHC 745 (Admin), the developer had built and begun operating from a large factory (the factory) without planning permission. The factory could not lawfully be granted planning permission without an environmental impact assessment (EIA).

Although much of the factory was operational by April 2005, the local planning authorities (LPAs) believed that “substantial completion” had not taken place until November 2005.

Consequently, they thought that they had until November 2009 to take enforcement action.

The developer’s competitor applied to the High Court for:

- An order that the LPAs take enforcement action before April 2009.
- An order preventing the grant of retrospective planning permission on the basis that it would undermine the preventative objectives of Directive 85/337/EEC (the EIA Directive).
-

The High Court held that the LPAs had misunderstood the decision in *Sage v Secretary of State for the Environment, Transport and the Regions* [2003] UKHL 22. Consequently, it ordered the LPAs to issue enforcement notices, requiring the removal of the factory works

and manufacturing to cease, on the basis that the development (or certain elements of it) could arguably acquire immunity from April 2009.

However, the court refused to make an order preventing the grant of retrospective planning permission for the development. It stated that retrospective planning permission could be lawfully granted for an existing EIA development provided that the objectives of the EIA Directive were protected.

This case illustrates that the court is prepared to intervene to enforce LPAs to take enforcement action to prevent an unlawful development that requires an EIA from gaining planning immunity. This is the case even though the LPA may be keeping the need for enforcement action carefully under review and is exercising its discretion whether or not to take enforcement action.

Right of way - does an alternative route make a difference?

In *Heslop v Bishton & others* [2009] EWHC 607 (Ch) Mr Heslop constructed a gateway, the walls and pillars of which encroached onto a right of way. In order to use the right of way, those with the benefit of it (including Mr Bishton) had to walk on a small strip of Mr Heslop's land that was unaffected by the right of way. Mr Heslop did not object.

Mr Bishton brought an action claiming that the pillars and walls were a "substantial interference" with his right of way. Mr Heslop claimed that the interference was not "actionable" because the deviation (onto the small strip of his land) meant the alternative right of way was equally convenient as the original right of way. He offered Mr Bishton a ten year licence to use the small strip of land.

The High Court held that:

- Mr Heslop could not unilaterally alter the right of way and therefore could not prevent acts of interference with the old right of way, from being actionable.
- The existence of the new right of way went to the remedies available to Mr Bishton, not to the existence of the right.
- Where there is an equally convenient new route, the court may refuse to grant an injunction but it is not prevented from granting other relief. It would be unjust if a legal right was extinguished by an equitable right, only for the equitable right to be defeated at a later date leaving the land owner with no right at all.

•
EdIt is important to consider whether a new right that is to be granted is intended to be in addition to or instead of an existing right.

Student Probono Awards 2009

The outstanding achievements of students and law schools from across the UK were celebrated at the annual LawWorks & Attorney General Student Awards, which took place

at the House of Lords on 31 March.

The Attorney General, Baroness Scotland QC, said:

“I am both proud and delighted to be part of this celebration which acknowledges the fine achievements of lawyers who are embarking on their legal career. I believe the desire to undertake pro bono work is inherent in every good lawyer; it is part of their DNA. I applaud the ingenuity, passion and commitment of all the winners, and all of the other nominees who have worked tirelessly to keep pro bono work at the very heart of our profession.”

The winners for each award were:

Best Contribution by a Law School – University of Strathclyde

Best Contribution by an Individual Student – Camilla Graham-Wood (The College of Law, Bloomsbury)

Best Team of Students – University of Nottingham Pro Bono Society

Best New Pro Bono Activity – The College of Law, Birmingham

Other notable achievements included Queen Mary, University of London, which was short listed in three categories, and Alex Simmonds, formerly of Nottingham Law School, who was runner up in the individual category. The Bars in Their Eyes Programme, which Alex developed in cooperation with the law school, was also short listed in the new activity category. Finally, Northumbria University followed up last year’s Best Law School prize by coming runner up in two other categories this year as a result of their Small Business Clinic pro bono service.

HSE's myth of the month



Myth: Ice cream toppings have been banned for safety reasons

The reality

The HSE were surprised to hear that ice cream toppings had been banned amid health and safety fears.

This rumour came from an ice cream parlour giving out extra toppings in separate containers, instead of pouring them over the ice cream. They were concerned that people might slip on any spills.

It's important to prevent slips - they remain the most common cause of major injuries.

But in this case simply clearing up any spills as they occurred would have stopped people slipping and helped the company continue to make great ice cream taste even better!

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.

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