

BRUNSWICKS' REGULATORY NEWS

IN THE COURTS

CORUS UK FINED £1.3 MILLION FOR BLAST FURNACE DEATHS

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Following a catastrophic explosion at its number 5 blast furnace at Port Talbot on 8 November 2001 in which 3 steelworkers died Corus UK Ltd has been fined £1.3 million and ordered to pay £1.74 million costs for breaching health and safety law. Stephen Galsworthy, Andrew Hutin and Leonard Radford were fatally injured by the massive explosion.

At Swansea Crown Court, the company pleaded guilty to two charges of failing to ensure the safety of their employees and others brought by the Health and Safety Executive (HSE) under the Health and Safety at Work Act 1974.

In a statement at the conclusion of the case, HSE Director for Wales, Terry Rose said:

"Having met with the families of Mr Galsworthy, Mr Hutin and Mr Radford over the last five years I want to pay tribute to them. I have seen their grief and frustration, and we should all recognise that whatever has happened today cannot bring back their loved ones. Fines are insignificant alongside that.

This was systematic corporate management failure at the Port Talbot works. Proper management attention may have broken the chain of events which led to the explosion. I hope Corus, and indeed the iron and steel industry worldwide, learn from Port Talbot and make sure that those lessons are put into practice in their management systems, and maintained. This must be a wake up call for the industry. The process is centuries old but the risks need to be managed to the highest modern standards."

The explosion was caused by water in the furnace coming into sudden contact with hot material. As the water turned into steam it expanded rapidly, creating pressure, which blew the furnace apart.

Terry Rose went on to say, *"As far as we can establish an explosion of this magnitude is unprecedented in any blast furnace anywhere in the world. The proper design, maintenance and operation of the water cooling system is vital to the safe operation of the furnace and the ability to detect, and stop, water leaking into the furnace in quantity is very important. Corus failed to do this in relation to Blast Furnace 5. Those failings were spread over many years, with many different people involved. That is why HSE prosecuted the company, rather than any individuals. Since the event, HSE has continued to work with Corus to improve its safety management, and will continue to do so but none of this can bring back the men who died, or guarantee that it can never happen again."*

Swansea Crown Court—maximum penalty for these offences in this court—unlimited fine.

Ed—even though this case has been discussed in the media at various times since 2001 and received a splurge of publicity with the level of the fines imposed in many ways Corus has got off lightly. The management failures are not common currency in the media. The catalogue of errors which lead to the explosion was lengthy, including issues of cost cutting and failures in planned and preventative maintenance arrangements. All of these issues are inevitably at the heart of what management has to address when running such a business.

LIGHTWATER VALLEY RIDE DEATH: HSE PROSECUTION BRINGS FINES TOTALLING £157,500

On 20 June 2001 Gemma Savage, a 20 year old student was killed and three others injured following the collision of two roller coaster cars on the Treetop Twister rollercoaster ride at Lightwater Valley.

Following an investigation by the HSE prosecution proceedings were brought against the operators Lightwater Valley Attractions Limited, Mr Eric Butters a maintenance electrician and the manufacturer of the ride Societe Reverchon Industries from France. The operators and Mr Butters pleaded guilty, however the manufacturer contested the case but was found guilty after a 4 day trial.

Lightwater Valley Attractions Ltd was fined £35,000 plus costs of £40,000, Mr Eric Butters was fined £2,500 plus costs of £500. Societe Reverchon Industries, (now in liquidation), was fined a total of £120,000 plus £55,000 costs.

After the hearing, HSE's investigating Inspector Paul Robinson said:

"Gemma Savage tragically died after what should have been a fun day out for her. The guilty pleas and verdicts and the Judge's comments and fines imposed today on the ride supplier, operator and worker reflect the high safety standards expected by the law, public and HSE from all those involved in supplying and operating fairground and theme park rides. The amusement industry safety record is good but constant care is required from all those involved to ensure that high safety standards are achieved and members of the public are only exposed to the illusion of danger."

The 'Treetop Twister' ride at Lightwater Valley is a roller coaster where cars are pulled up to a height and then run back down on an undulating and twisting track under gravity. When a car failed to clear a 'hill', it was held near the top and the ride automatically stopped the following cars. Eric Butters used the maintenance hand controls to return cars to the station but his actions, combined with the effect of a ride wiring fault, resulted in the two cars colliding.

Lightwater Valley Attractions Ltd was charged with breaching Section 3(1) of the Health and Safety at Work etc Act 1974 (HSWA). Mr Butters was charged under Section 7(a) of the HSWA, and charges against the ride's French manufacturer, Societe Reverchon Industries, France, were under Sections 6 (1A)(a) & 6(1A)(c) of the HSWA.

Leeds Crown Court—maximum penalty for these offences in this court—unlimited fine

s3 HSWA is the health and safety duty all employers have to safeguard the health and safety of people who may be affected by their work. s7(a) HSWA is the duty which all employees owe to safeguard their own and others health and safety. The duties in s6 relate to the duties owed by manufacturers and suppliers. If you would like more information on these provisions they are covered in our podcasts which you can download from either our website www.brunswicks.eu, or our podcast hosts at www.brunswicks.libsyn.com

CENTURA FOODS FINED £60,000 FOLLOWING FORKLIFT TRUCK ACCIDENT

Droylsden company, Centura Foods Ltd, part of the RHM Group, was fined a total of £60,000 and ordered to pay £5,724 costs following an accident involving a forklift truck at its premises at Fitzroy Street, Droylsden on 3 May 2005 which severely injured one of their employees. Margaret Shaw (age 59) was hit by a reversing forklift truck in a warehouse and suffered severe injuries to her left leg and ankle.

"Mrs Shaw is very lucky not to have been killed," said HSE Inspector Jackie Darby, who took the case. *"Forklift trucks and pedestrians should always be kept apart as far as possible. They are extremely heavy vehicles and can cause severe injuries. This is a particularly disappointing case since the company failed to take effective action despite several warnings from employees about the risks to pedestrians in the warehouse from forklift trucks."*

Centura Foods pleaded guilty to a breach of Regulation 17 of the Workplace Health and Safety Regulations, which require the organisation of traffic movements within premises so that pedestrians and vehicles can circulate in a safe manner and to a breach of Regulation 3 of the Management of Health and Safety at Work Regulations, which require employers to undertake suitable and sufficient risk assessments.

Manchester Minshull Street Crown Court—maximum penalty—unlimited fines.

Ed accidents involving pedestrians and vehicles in a workplace setting are regrettably commonplace.

FIVE PAY £144,000 FOLLOWING DEMOLITION DEATH

The HSE brought criminal charges against five different parties following the death of Mr David Moran. Mr Moran fell eight metres to his death when he stepped on a fragile roof light at 17 Chesford Grange in Warrington on 20 September 2002. He was there to gain access to another roof.

Between all of the defendants they were fined a total of £87,000 and ordered to pay £57,228 costs at Manchester's Minshull Street Crown Court.

HSE construction inspector for Cheshire Nic Rigby who brought the cases to court said: "*This prosecution follows the tragic death of a young man on a site in Warrington. Unfortunately, his death is not unique: on average, one person is killed on a construction site in Great Britain every five or six days, and many more are seriously injured.*"

Mr Moran's employer Elmsgold Haulage Ltd of Clayton House, Piccadilly, Manchester pleaded guilty to charges under Section 2(1) HSWA in that they failed to provide a safe system of work and failed to ensure that people working on site were properly trained and supervised, and a charge under regulation 9(3) of the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) in that they failed to ensure that lifting equipment was properly examined and inspected. John McSweeney, of Willow Road, Prestwich, the Managing Director of Elmsgold Haulage Ltd was prosecuted personally too for these offences.

Elmsgold Haulage was fined £10,000 for each charge and ordered to pay total costs of £9,756. Mr McSweeney was fined £5,000 for each charge and ordered to pay total costs of £5,000.

Demolition contractor Excavation & Contracting (UK) Ltd of Sandringham Avenue, Denton in Manchester, the principal contractor for the Chesford Grange project, pleaded guilty to a charge under Section 3 (1) HSWA in that they failed to ensure that risks to non employees were adequately controlled. The company's former Managing Director Bernard O'Sullivan was also prosecuted personally.

Excavation & Contracting (UK) Ltd was fined £35,000 and ordered to pay £9,972 costs
Bernard O'Sullivan was fined £20,000 and ordered to pay £30,000 costs

Dennis O'Connor, of St James' Road, Orrell, Wigan, Elmsgold Haulage's site foreman pleaded guilty to a charge under Section 7 of the HSW Act in that he failed to ensure the safety of other employees. He was fined £2,500 and ordered to pay £2,500 costs

At an earlier hearing at Warrington Magistrate's Court on 31 January 2006, John Edge of Knight Frank, a property management company acting for the owner of Chesford Grange and planning supervisor for the project, pleaded guilty to two charges under Regulation 15 of the Construction (Design and Management) Regulations 1994 for which Knight Frank was fined a total of £7,000 plus full prosecution costs of £4,500. Knight Frank operated as a partnership, which does not constitute a legal entity for the purposes of prosecution, and therefore the case was taken against one of the partners, Mr John Edge.

Manchester Minshull Street Crown Court—maximum penalty— unlimited fines

Ed—accidents involving individuals falling through fragile roofs or rooflights are very common accidents. What is uncommon in this case is just how far the HSE went in pinning liability on corporate entities and individuals. This case was discussed in BRN for October 2006

ANOTHER FALL FROM HEIGHT

Single Source Ltd was fined 5,000 and costs of £1,434 following an accident, which resulted in an elderly employee falling three metres over the edge of a mezzanine floor, fracturing his spine and both heels, on 11 August 2005.

Jim Morgan age 70 from Telford was working as a cleaner during the night shift in a loading bay area on a mezzanine floor when the incident occurred. Another employee was operating an electric pallet truck with a container on the front which obscured his vision. As it was moved into the loading bay it hit Mr Morgan and pushed him over the edge on to a concrete floor below. The incident happened at Single Source Ltd's site at Stafford Park, Telford, Shropshire.

Single Source Ltd, a company which packages sachets of condiments, pleaded guilty to a breach of section 2(1) of the Health and Safety at Work etc Act 1974.

Telford Magistrates Court—15 December 2006.

Maximum penalty for this offence in this court £20,000 fine

CONSTRUCTION COMPANY AND DIRECTOR FINED FOR CAUSING BUILDING COLLAPSE

Rosekey Limited (trading as Atwal Builders) and their director Mr Kashmir Singh Atwal of Bexleyheath, Kent, were fined after both pleaded guilty to breaches of health and safety law, at Croydon Crown Court on Friday 8 December.

The prosecution arose following an incident on 10 December 2004 at 49 Tower Bridge Road, London SE1, when a bookshop and the two flats above it partially collapsed in the middle of the night. Rosekey Limited had been contracted to build a new shop and flats next door, and over the previous few days excavations had taken place on the site to form the foundations of the new building. A trench was dug alongside the bookshop wall, at a depth that undermined its foundations. There was no suitable support provided for the excavation or the shop.

During the evening the resident of the top floor flat above the shop saw cracks appearing and widening across the internal walls of his property. When he called the Fire Brigade he was given just a few minutes to grab some belongings before having to evacuate the premises. The owner of the first floor flat arrived back and they both saw their homes collapse in ruins. The residents of the flats were rendered homeless and lost all their belongings, whilst the bookshop lost its stock and was forced to relocate.

Rosekey Limited was fined £90,000 and Mr KS Atwal as director was also fined £90,000. They were ordered to pay the HSE's costs of £14,444, as well as an interim award of compensation of £3,000 to each of the three displaced residents of the flats.

His Honour Judge Tanzer was particularly critical of Mr Atwal. He stated that Mr Atwal was "*incompetent and ignorant*". He added that over previous years at other sites Mr Atwal had "*failed to heed warnings from the Health and Safety Executive, and endeavoured to evade the consequences with feeble excuse after excuse*". The judge commended the top floor resident Mr Stephen Cheney, who noticed cracks opening up on the walls of his flat, and contacted his neighbours to make sure they were safe.

The investigating HSE inspector, Alec Ferguson, commented after the hearing, "*This was an utterly needless and preventable incident caused by a company with a poor health and safety record. Mr Atwal was in everyday control of the site, but failed to ensure that construction work was carried out safely, due to his neglect. Although it is fortunate that nobody was injured or killed, he has caused untold hardship, misery and distress to those affected by his ill-managed enterprise. I would remind all contractors of the dangers associated with excavating near to existing structures, and to take every necessary precaution to provide adequate support to prevent a similar incident*".

Croydon Crown Court—maximum penalty for these offences—unlimited fines.

WIDNES COMPANY PAYS OVER £15,000 FOR HEALTH AND SAFETY OFFENCE

A Widnes company has been fined £13,000 and ordered to pay £2,730 full costs after pleading guilty to a criminal charge under s2(1) HSWA at Warrington Magistrates Court.

The court heard that on 13 June 2005 Anthony Green, an employee of Merseyside Coatings Ltd, was shotblasting a large tank from the top of a scaffold tower at the company's premises at Pickerings Road, Widnes.

HSE Inspector Iain Evans, who took the case, says: "*A competent person had not erected the tower, and consequently the outriggers were not installed. These stability devices significantly increase the floor area of the tower and hence its stability. Neither the supervisor nor any employees working on the tower had received any training in working at height or on scaffold towers. Whilst the Company had correctly identified the risks and appropriate control measures through a risk assessment, on this occasion none of the control measures were implemented. There was an inadequate health and safety management system in operation to monitor and review these arrangements. Merseyside Coatings Ltd has previously been convicted of three health and safety offences under various regulations. Although the circumstances were completely different, this fact highlights the lack of a suitable safety management system at the company. Falls from height are one of the most common causes of serious injury at work yet are also preventable by simple precautions. Mr Green was working at a height of four metres and could have died in a fall. HSE will do all in its power to ensure that such a lax attitude to health and safety will be prevented,*" concluded Mr Evans.

Warrington Magistrates' Court—the maximum penalty for this offence in this court is a fine of £20,000

DRAIN COMPANY FINED AFTER ELDERLY MAN FELL 5.5M

Patrick Paul O'Regan, 73 of Wrexham, was left paralysed from the waist down and sustained serious injuries after falling around 5.5 metres down a manhole and into a sewer near his home. Drain Busters (NW) Ltd, of Halkyn, pleaded guilty at to a breach of s3(1) HSWA and was fined £16,000 with £5,508.95 costs.

The company were carrying out surveying works on drains in the area of St. Mellions Crescent in November last year, but had failed to ensure the open manhole had any barriers around it. Mr O'Regan noticed one of his neighbours reversing out of their drive, and was looking for the Drain Busters operatives to ask them to move their van from the entrance to the cul-de-sac when he fell into a manhole opening. HSE inspector Debbie John said: "*Our investigation revealed that the company's operatives who were involved in this incident had received no formal training about the need to ensure there were suitable barriers around a hazard such as this manhole. This was a very serious incident which could well have resulted in a fatality. Ultimately, Mr O'Regan suffered horrific injuries, which have left him paralysed. Members of the public rightly have an expectation that they will be suitably protected from the effects of hazardous work activities, and HSE will do all it can to ensure employers fulfill their responsibilities.*"

Wrexham Magistrates' Court - maximum penalty for this offence in this court £20,000 fine.

Ed—given the circumstances of this accident the defendant was luckily not to be more heavily fined and dealt with in the Crown Court.

INSPECTOR WINS 'FIRST' CERTIFICATE OF COMMENDATION FOR HSE

Liam Osborne, a Health and Safety Executive (HSE) inspector based in Bristol, has just been awarded a Crown Court Certificate of Commendation - this is the first time, it appears, that an HSE inspector has been awarded such a commendation.

This award is in recognition of the work Mr Osborne and his colleagues did to ensure the successful prosecution of Photo Me International plc. The company was fined a total of £100,000 and ordered to pay £30,000 costs at Bristol Crown Court on 29 September for health and safety failings, after at least three employees in the South West developed a serious and extremely painful skin disease linked to the photographic chemicals they used.

The Judge hearing the case - His Honour Simon Darwall-Smith, praised Liam in court for the solid case he built and this was reflected in the total level of fines imposed - the highest ever imposed for offences relating to hazardous substances and another 'first' for the Bristol HSE team. Citing the inspector's 'tenacious' and 'thorough investigation', the Judge then instructed that Liam should be awarded the Commendation.

Liam was presented with his Commendation on 7 December by the High Sheriff of Bristol, Richard Lee.

Commenting on his award, Liam thanked all those who had assisted him with the case including the occupational hygiene specialists "*It is a pity that the defendants in this case did not do more earlier to reduce the risks to their employees. However, I am pleased that all our hard work in investigating and bringing the matter to court has been recognised.*"

Adding his congratulations to those of the High Sheriff, HSE South West and Wales Director, Terry Rose CBE, said: "*I am extremely proud of the work that Liam and his colleagues have carried out in this case. It reflects the increasing priority we are placing on such work-related health risks as dangerous substances, manual handling and stress. We want employers to ensure that those risks are reduced to a minimum. Proper health and safety measures are essential for employees' welfare and a healthy workforce will always make better business sense for employers than an injured or absent one.*"

Ed—no one should begrudge the recognition of exceptional service by public sector officers and we join with the authorities in passing our congratulations to Mr Osborne.

I speak as someone who has received, in the past, an honorarium from a public sector employer that was astonished by the efforts I applied to a particular situation. For my part I felt I was simply doing my job. Was Mr Osborne doing anything more than a competent official should have done? Without in anyway seeking to belittle his achievements I ponder whether the performance of our public sector is in reality one of the biggest issues we have to grapple with in the twenty-first century. Mr Osborne's performance was clearly of the highest order. It is perhaps a pity that all of his public sector colleagues do not live up to his high standards. As a nation we would do better if they did.

THE PRICE OF IGNORING ADVICE (1) KUBOTA UK LTD FINED £175,000

Kubota UK Ltd (see October 2006 of BRN) has been fined £175,000 and ordered to pay £21,000 in costs at Oxford Crown Court for breaches of Health and Safety at Work regulations

This prosecution followed an earlier investigation by the Health & Safety Executive into an accident that occurred in 1999. When a landscape operative seriously injured his hand on a Kubota GCD360 grass collector. This alerted HSE to possible safety problems with the machine and was taken up with Kubota UK Ltd.

On 17 October 2003, Roger Adams, an employee of North West Kent College, Gravesend, Kent, was using a GCD360 grass collector when his hand was caught in the rotating turbine. He suffered an amputation of his hand at the wrist and later had a further 3.5 inches amputated.

On 23 April 2004, Stephen Sandham, an employee of Wright Landscapes Ltd, Wrexham, was using the GCD360 grass collector when his hand was also caught in the rotating turbine. He sustained amputation of his right thumb, index and middle fingers and a substantial portion of his hand.

Following an investigation, it was found that the machines were not safe and did not comply with the European Machinery Directive, despite the Kubota Europe SA placing a CE mark on the equipment.

Kubota UK Ltd had done nothing to implement the relatively simple modification that would have prevented access to the rotating turbine, following earlier HSE suggested improvements.

Kubota UK Ltd of Dormer Road, Thame, Oxfordshire, which import and supply a variety of agricultural and light construction vehicles to the UK, was charged with three offences under Section 6 of the Health and Safety at Work Act 1974 for supplying articles for use at work that are unsafe. Two of these offences relate to the two injuries sustained in 2003 and 2004. The third charge listed 88 instances of supply - this is all of the grass collectors supplied to Great Britain since they were initially informed of the inherent safety defects by HSE in 1999 and agreed in writing to modify the design.

Iain Evans HM Inspector of Health and Safety, said:

"Kubota UK Ltd disregarded advice from HSE despite being given a written undertaking to implement additional safety on their grass collectors. The size of fines reflects the needless amputations that occurred as a result of the company's lack of action and the number of other employees across the country that have been put at risk. It is part of the HSE sensible approach enforcement to prosecute those businesses which fail to comply with previous HSE advice."

THE PRICE OF IGNORING ADVICE (2) - TO BE MEASURED IN LIVES LOST PERHAPS?

On 6 December 2006 Michael Wills, MP for North Swindon secured an adjournment debate in Parliament regarding the HSE's dealings with Mr Burr of Roves Farm visitor centre, Swindon.

Seemingly since 2003 the HSE has had a very difficult relationship with Mr Burr, whose visitor centre is visited by many children each year including school trips. The HSE wants these visits to be properly managed so that in their view the children can return to their parents without having faced unnecessary risk.

A number of HSE inspectors have given both written and verbal advice to Mr Burr. However, on many occasions the advice was not acted upon, leaving the inspectors no alternative but to serve enforcement notices in order to secure improvements in relation to serious health and safety risks on the farm. In December 2004 HSE inspectors raised serious concerns about the risk to children of a straw bale maze at the farm. They suggested that Mr Burr carry out a risk assessment. By early summer 2005 Mr Burr had failed to confirm that this had been done. Inspectors then sought the advice of experts from within HSE and the local Fire Brigade.

In July 2005 these experts visited the farm and confirmed that *"it was foreseeable that if there was a fire, a child could be trapped in a smoke filled tunnel unable to find an exit and not likely to be rescued before they succumbed to fumes or flames, the prime casualties being young children."* Given this advice inspectors had no option but to serve a prohibition notice, stopping the use of the maze until improvements were made. Mr Burr chose, as is his right to appeal against this notice, but after a first hearing he agreed to a revised design of the maze and as far as HSE was concerned the notice was then complied with. However, Mr Burr continued to appeal against the notice, forcing HSE to incur significant legal costs. At the second hearing, costs of the appeal were awarded to HSE. The recovery of these costs is still a matter of ongoing litigation.

WHAT'S NEW

HSE MARKS BUNCEFIELD ANNIVERSARY

A year on since the explosion and fire that devastated the Buncefield fuel depot the HSE has issued information on the activities it has carried out and its on going programme of work to learn lessons from the investigation into the incident. A full table that charts the activity can be found at: <http://www.hse.gov.uk/comah/buncefield/oneyear.htm>

The Health and Safety Commission (HSC) directed HSE and EA to investigate the incident and asked for an independent Major Incident Investigation Board (MIIB) to be established to supervise the investigation. Since then there has been three progress reports from the investigative team and an initial report from the MIIB.

The complex investigation continues and will inform a final decision by HSE about any possible criminal prosecutions.

As information about the cause of the incident has emerged, HSE has followed this up with substantial actions for industry, which has included the issuing of two Safety Alerts in February and July. These required operators to review aspects of their operations and report their findings to HSE and were followed up by targeted inspections by HSE staff of over 100 fuel storage sites.

In addition, a Task Group comprising industry, trade association and employee representatives has been established, to which the COMAH Competent Authority provides regulatory oversight and direction to ensure enhanced safety standards are developed and implemented. The Task Group developed eight initial recommendations to enhance standards. Industry agreed to implement these within a very tight timescale. Further recommendations to improve safety will be produced.

The incident has important implications for the advice that HSE gives Planning Authorities on proposed developments around hazardous sites, and HSE will consult early in the new year on how we may need to modify our advice in light of Buncefield.

SHOULD THE HSC & HSE MERGE?

The HSC has published a public consultation document seeking views on merging the HSC and HSE into a single health and safety authority. The HSC believes that merger with HSE would modernise their corporate governance and provide a stronger voice for health and safety. As part of this, the consultation discusses how the HSC would become the governing body of the new authority, retaining its current independence and links with stakeholders while strengthening its capacity to challenge and support delivery.

In their view the merger will provide:

- * a more accountable structure in line with current best practice;
- * better decision making and a clearer public and regulatory presence;
- * for the continued independence of the safety regulator;
- * a balanced structure at arm's length from Ministers; and
- * membership for representatives from employer and employee backgrounds, with a seat for local government and a member designated to maintain links with the devolved authorities.

Commenting on the consultation, Bill Callaghan, HSC Chairman, said: "*We believe that our governance structures - the infrastructure that supports our decision-making - have served us well in the past. In particular, the broad partnership nature of the HSC, its independence and its strong links with Local Authorities are assets we wish to maintain. Equally, the shape of the labour market, the nature of workplace risks and stakeholder expectations are very different to those which created the backdrop to the Health and Safety at Work Act thirty years ago. We therefore decided earlier this year that the time was right to look critically at how our governance arrangements compare with best practice, what works well at present and whether we could strengthen the links between strategy and delivery necessary to provide the accountability expected of a public body in the 21st century. Our conclusion is that merging the Commission and Executive into a single body will give us a more robust governance framework, improve our working practices and create a stronger voice for health and safety in Great Britain. We believe that our proposals take the best from the existing governance arrangements, updating them to instil the drivers necessary for re-invigorating the decision-making framework within which we work and strengthening our existing partnerships, particularly those with Local Authorities.*"

The consultation can be downloaded from <http://www.hse.gov.uk/consult/live.htm>

Comments on the consultation should be sent to Ami Badmus, Health and Safety Executive, Rose Court, 2 Southwark Bridge, London. SE1 9HS, or email: governance@hse.gsi.gov.uk to arrive no later than 5 March 2007.

APPARENTLY BRITISH HEALTH AND SAFETY MEASURES UP WELL - BUT WITH MORE TO DO

The HSC has published a performance report detailing the wide range of work that it has overseen during the past year to reduce work-related fatalities, injuries and illness.

Measuring Up... Performance Report 2006 gives a summary of the activities, initiatives and campaigns carried out by the Health and Safety Executive (HSE) and Local Authorities that have contributed to Great Britain's record of having the lowest fatal injury rate in Europe. The report, which can be found at <http://www.hse.gov.uk/> estimates that over 5,000 lives have been saved since the 1974 Health and Safety at Work Act by health and safety improvements that have cut workplace accidents.

Announcing the publication of the report, HSC Chairman, Bill Callaghan, said: "*As a society, we've come a long way since 1974 when the current health and safety law was introduced and 600 people were regularly killed at work each year. Our most recent fatal injury statistics show that the number has reached a record low of 212, this is encouraging, but we still need to do more. The changing economy and the increasing number of migrant workers are key challenges. As illustrated by this report, HSE and Local Authorities are doing a great deal of work, frequently in close partnership with businesses, health and safety groups, other government bodies and trade unions. This is an important strand of the Commission's strategy and shows that it is having tangible benefits for workers. The report also shows that the unique role and powers of health and safety inspectors to enforce the law continue to remain a vital part of our effort to drive up safety standards.*"

As well as offering examples of the various initiatives, campaigns and strategies that have been implemented in recent years to improve health and safety at work, the 19-page document also features information on HSE's work on regulating major hazards. In particular, it covers the on-going work into the Buncefield incident and HSE's contribution to the energy review.

Lord Hunt of Kings Heath, Minister for health and safety, commented: "*I'm delighted by the work that the HSC/E Local Authorities and all those who have an interest in improving workplace health and safety have done over the past year to improve standards for workers in Great Britain. With over 5,000 lives saved by reductions in workplace accidents over the past 30 years, and as Britain enjoys the lowest rate of workplace fatalities in Europe, we clearly have much to be proud of. But the death toll, and numbers of serious injuries and ill-health caused by work shows we still have much to do.*"

Ed—so examine your performance and that of your business—are we doing well? It never ceases to amaze me as I move from one scene of destruction and disaster to another that the seemingly obvious can sometimes simply be ignored. That said things are clearly improving. But so many undertakings do not have a positive health and safety culture at their heart. If I was to single out poor performers I would point out the health and healthcare sectors where mistakes can and do end in untimely death, but because of the obvious frailty of many victims the poor performance of the undertaking goes unnoticed.

HSE WARNS OF RISKS TO CONSTRUCTION ACTIVITIES FROM HIGH WINDS

Following a tragic fatal incident on a Merseyside construction site during high winds the HSE is reminding employers and site managers to take extra care over well-known and not so well known risks associated with adverse weather.

HSE Principal Construction Inspector for Merseyside and Cheshire, Wayne Crumpton said:

"Construction professionals should be well aware that following high winds and heavy rain they should carry out inspections of their activities and relevant equipment that could be adversely affected by the weather. For example; scaffolds, especially those fitted with debris netting or even advertising, ladders, formwork and excavations should be checked out by a competent person to make sure they are safe to use before work starts. What is not so obvious is the risk from unsecured items that can be caught by the wind and blown into people and cause serious injury. Examples include hoardings, gates, panel products and even structures under construction. Just as important is maintaining construction sites in a state where high winds etc cannot lead to danger. With more high winds forecast, site managers need to ensure that ladders and scaffolds are properly tied, gates and similar are secured and not allowed to swing and walls etc are adequately supported."

Ed—the HSE is currently investigating a fatal accident at a house build site in Bidston, Wirral on Sunday 3 December a security guard was apparently struck by an unsecured gate.

HSE REMIND PEOPLE IN THE NORTH WEST OF DANGERS ON CARBON MONOXIDE AWARENESS DAY

The HSE is lending its support to Carbon Monoxide (CO) Awareness Day by reminding homeowners and landlords in the North West of the dangers of CO and the simple steps that can be taken to protect themselves and others from harm.

In the North West, the warning is particularly aimed at the large student populations in rented accommodation in Manchester, Liverpool, Preston, Lancaster, Chester, Bolton, Ormskirk, Salford and Carlisle.

Geoffrey Podger, HSE Chief Executive, said:

"Encouraging public understanding is an important weapon in cutting the number of people killed or made seriously ill each year as a result of CO poisoning. Today's awareness day is key to achieving this and communicating the message that if appliances are not properly installed and adequately maintained by a competent CORGI-registered installer, the gas may not burn properly meaning potentially deadly CO fumes are released. You cannot see, smell or taste CO fumes leaving anyone exposed feeling unwell. In the worst situations, CO can kill without warning in just hours. Students are urged to ensure that their gas appliances have had an annual safety check by a CORGI registered installer and they have a copy of the safety check."

HSE Senior Inspector Phil Gifford, responsible for gas safety in the North West said:

"Landlords are responsible for ensuring that the gas appliances they own are maintained and they must be checked for safety at least once a year. A good supply of fresh air is essential, airbricks or ventilation should not be blocked. Around 20 people are killed every year from carbon monoxide fumes from household gas appliances and several hundred more suffer carbon monoxide poisoning, but luck is with them and they survive. Around two thirds of fatal incidents would probably have been avoided if the appliance had been competently serviced."

Supporting the day is Sian and Colin Goodson whose family became ill when they were exposed to CO from a poorly ventilated boiler. The Bristol couple moved into their house in October 2005, where a boiler had already been installed several years earlier.

Mrs Goodson explained what then happened at a family gathering in December 2005.

"My husband's parents, brother and sister came to stay with us the night before the funeral of his grandmother and on the morning of the funeral we all had showers. There was no warning - such as a strange smell or taste - we simply all started to feel ill and faint and my eight-month old baby was unusually sleepy. Luckily, Colin and his brother quickly realised that something was wrong and we all got out of the house just in time, although my son Archie had passed out by this point. Thankfully, the emergency services arrived almost immediately and we all spent the day in hospital on high flow oxygen because of the CO levels in our blood. We found out later that the very old boiler had suddenly packed up - presumably due to pressure put on it by the large number of people showering - and my main regret is that we hadn't got round to having it serviced since we moved in. So my main piece of advice to anyone hearing our story is 'get your boiler serviced regularly' - it might cost you your life if you don't."

In addition to getting appliances checked, it is also important to ensure they are used correctly. When used, appliances must have access to a good supply of fresh air: CO is produced when there isn't enough air for complete burning of the fuel.

In addition, never use a gas appliance if you think it's not working properly. Signs to look out for on boilers, fires and cookers include:

- * yellow or orange flames (except for fuel-effect fires which display this colour flame);
- * soot or stains around the appliance; and
- * a pilot light that frequently blows out.

Approved CO detectors are strongly recommended, although these must not be used as a substitute for regular checks and servicing by a CORGI-registered installer.

Symptoms of CO poisoning can include tiredness, drowsiness, headaches and breathlessness. If you believe CO may be causing you problems seek urgent advice.

HSE URGES FARMERS IN KENT TO PROPERLY MAINTAIN TRACTORS, TRAILERS AND OTHER MOBILE EQUIPMENT

Over the last few months the HSE, VOSA (Vehicle & Operator Services Agency) & Kent Police have been undertaking random checks of vehicles both in fields and on the roads and it is apparent that farmers are willing to use poorly maintained and unsafe vehicles.

The HSE has been promoting the use of the BAGMA (British Agricultural and Garden Machinery Association) vehicle health check scheme during spot checks undertaken so far and will continue to do so during visits undertaken later this month.

Mike Walters, HSE Inspector in Kent says: "*A well maintained vehicle being driven by a competent person should be safe to use both on the farm and on the road. By adopting the BAGMA vehicle health check scheme, farmers will be able to ensure that their tractors and trailers are maintained in safe working order and are roadworthy. From the random checks undertaken so far over 50% of vehicles have been taken out of use until they have been made safe. A basic check can take no more than five minutes, with a more in-depth check lasting approximately 45 minutes to an hour by the time all parts have been checked thoroughly. This small time will contribute to the prevention of the needless deaths and suffering of those injured by agricultural vehicles every year. I urge all farmers to make sure their tractors, trailers and other mobile equipment are safe to use both on the farm and on the road by doing regular checks on their vehicles, using the scheme and by only using vehicles which are up to the task. During December 2006, along with VOSA and Kent Police, HSE will be carrying out spot checks on farm vehicles being used on both on and off road. We will not hesitate to deal with vehicles that are found to be unsafe, no matter how inconvenient this may be for the farmer.*"

DON'T TAKE RISKS WITH CHAIN SAWS - HSE WARNS

The danger of chain saws has been highlighted by the Health and Safety Executive with the wintry weather bringing with it the problem of storm damaged trees. Chainsaws are potentially dangerous machines, which can cause serious injury or even death if used by untrained people not wearing the correct safety equipment. Kickback - when a chainsaw hits an object causing a sudden uncontrolled movement - is the cause of a significant number of accidents, especially to the face and upper body, where protection is difficult.

Health and Safety Principal Inspector, Tony Trenear said:

"Chain saws can be lethal machines and anyone using one needs to be properly trained and wear the correct safety equipment. Winter always sees a rise in the number of accidents as activity increases with the high winds and storms bringing a lot of tree damage that need to be removed. Accidents can be avoided by taking the right precautions and it is an employers duty under Health and Safety legislation to ensure that employees are not put at risk. Tree felling using chainsaws can be particularly hazardous and using a chainsaw from a ladder is regarded as unsafe, with both hands needed to use a hand saw safely."

Companies and businesses employing contractors to work on wind blown trees should assure themselves of the contractor's competence before engaging their services. Arboricultural trade associations can supply details of approved contractors and information to help in choosing a competent tree work contractor.

"Using a chainsaw from a rope and harness should only be done by people who have obtained the relevant competence certificate for arboriculture work."

HSE advice to people using a chain saw includes—Anyone using a chainsaw should have received adequate training and be competent in using a chain saw for the type of work they are carrying out. Suitable protective equipment should be worn, no matter how small the job, including:

- Safety helmet
- Hearing protection
- Eye protection
- Upper body protection
- Gloves
- Leg protection
- Chainsaw boots

Avoid working alone with a chainsaw. Before starting work, operators should check work sites thoroughly to identify potential hazards. Operators need to be both physically and mentally fit before using a chain saw. Chainsaws should not be used by anyone under the age of 16. Chainsaws expose operators to high levels of noise and hand-arm vibration, which can be controlled by good management and practice.



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Incidentally Brunswicks was the first UK law firm to create podcasts.

IN BRIEF

The HSE currently has campaigns focusing on:

Dermatitis in the Hairdressing industry

Safety in the use of scaffolding

Keeping fit—as a means of improving employee morale and reducing work related injury and stress

FORTHCOMING PODCASTS

We are preparing a podcast on work related stress and another one on the trials and tribulations of the new fire risk assessment regime. We are aiming to make the one on work related stress in January 2007 and the one on fire risk assessment in mid February. If you have any information you'd like to contribute to these podcasts please contact us.

You are welcome to suggest items for future podcasts or articles in Brunswicks Regulatory News.

Happy New Year!