

# Health and Safety Bulletin

## A digest of recent health and safety articles and cases

### **In this issue:**

- 1. Warning sounded to local authorities that underfund facilities**
- 2. Cut down on waste**
- 3. Employers to pay NHS costs for workplace accidents**
- 4. Practical ways to assess the risk of stress**
- 5. Site was disturbed before investigation**
- 6. £180,000 fine following reversing vehicle death**
- 7. Kiln demolition led to asbestos exposure**
- 8. £320,000 rap for high-street scaffolding collapse**
- 9. Fatal fall contractor escapes hefty rebuke**
- 10. Resident drowns in pond**
- 11. Automated defibrillators in public places are saving lives**

## **Warning sounded to local authorities that underfund facilities**

The inevitable happened when a local authority had insufficient money to properly run a facility. A prosecution taken against Havering Council who pleaded guilty to breaching health and safety legislation in the circumstances of the death of Charlotte Subuhon, 6, who drowned at Chafford Sports Centre, Rainham, Essex, will act as a caution to other authorities that wish to provide and operate facilities but allocate insufficient funding to secure the health and safety of the public who use them.

Havering Council was fined £75,000 over the tragedy in which Charlotte lost her life - only two lifeguards and two adults supervised the pool holding more than 36 children on that day. According to the HSE in the preceding years it had been managed on a 'haphazard and at worst chaotic basis'.

Mr Anthony Morris QC said: "What is remarkable is that with up to four hundred children a week attending pool parties a tragic accident such as this had not occurred in the pool before."

## **Cut down on waste**

Urging industry to respond positively to a range of European waste directives, which are at the development stage, Brian Wilson, minister for energy. Said:

"The UK produces 400 million tonnes of waste a year which is simply not sustainable. Industry must work closely with Government to ensure that proposals, while not imposing excessive costs on business, deal responsibly with the mounting problem of waste."

Two key waste directives are being considered by the European Commission: the waste electrical and electronic equipment directive designed to remove from the traditional waste stream redundant electrical equipment; and the end of life vehicle directive aims to reduce the amount of waste from vehicles (cars and vans) when they are finally scrapped. It will also help address the perennial problems of abandoned vehicles.

Mr Wilson said: "Cutting down on waste is not just about reducing the impact on the environment. It is also about making the most efficient use of resources, which in the long run will help companies save money."

"If the environment, industry and consumers are to benefit, it is crucial that industry approaches the proposals on the table with a sensible and responsible approach."

"There is a culture in this country to throw rubbish into the bin and not worry about the consequences. We have been landfilling our waste for far too long and have not given proper attention to the potential of recycling and re-using goods."

"I am delighted that the Waste Resources Action Programme (WRAP) has now been established. It will provide a fund of £45 million to help identify markets for recycled products and overcome any further barriers to recycling."

The Government's performance and innovation unit is soon to produce its study report on waste. This should help develop more sustainable approaches.

## **Employers to pay NHS costs for workplace accidents**

Following recommendations from the Law Commission, The Government has published a consultation document, which discusses the possibility of extending the system of recovery of NHS costs from road traffic accidents to all personal injury claims. This means that employers who are responsible for causing accident or injury to others could be liable for the costs of any NHS hospital treatment the injured person may need.

The proposals include:

The payment of NHS costs being met by the person or organisation paying compensation, not by the person receiving treatment;

The amount of personal injury compensation not being reduced to take account of the NHS costs;

NHS recovery costs limited to the cost of any hospital treatment and associated ambulance costs – not primary care (family doctor) costs;

All money recovered being passed direct to the hospitals concerned in the claim to spend as they wish; and

The scheme to be administered by the Compensation Recovery Unit (CRU).

Health Minister David Lammy said: “Wrongdoers should meet the costs of their actions in full. Extending the recovery of NHS costs to all personal injury claims will remove the burden from general taxpayers of subsidising part of the costs of a wrongdoer.

“This scheme will not introduce any more regulations for business but it is unacceptable that taxpayers have to pay for the medical treatment of someone injured at work simply because employers fail to take adequate steps to protect their workforce. By having to bear the cost of treating those injured in the workplace employers, for example, will have another incentive to reduce risks to their workforce and the public at large. People have a right to treatment free at the point of entry to the NHS. Employers have a responsibility to reduce the possibility of accidents to their workers.

“Any income raised from the recovery of costs scheme will not get swallowed up by NHS bureaucracy or Treasury coffers .... Individual hospitals will recover the costs and decide where they want to reinvest that money to improve services they want.

“Responses to this consultation will help us decide what a recovery scheme might look like, how it would affect all of us as patients, as individuals, as employers, as businesses, as insurers or within local and central government in terms of costs and processes.”

(taken from RoSPA Occupational Safety & Health Journal November 02)

## **Practical ways to assess the risk of stress**

Employers who disregard warnings about the dangers of stress, soon start to wince when people go missing, explained Granville Crane, Consultant in Occupational Medicine, Sherman Health Services.

Speaking during the run-up to the European Week for Safety and Health at work, which this year is concentrating on psychosocial risks and stress at work, Granville

outlined the practical ways in which OH can begin to combat the problems of stress within the workplace, despite the sometime unhelpful attitude of management.

Describing one employer's reaction to the idea of stress related illness as 'the skiver's charter', he explained that the key role of the OH department is to "get the message across and persuade line managers to manage properly".

But he warned delegates: "You must secure board agreement for your plans, because unless you can do this, a stress policy will not be really feasible." I believe passionately that we should all take every step we can to avoid causing our fellow workers stress," he said.

## **Site was disturbed before investigation**

A coal company that disturbed the site of an accident, in which a truck driver injured his shoulder, has been penalised £2500 at Bedlington magistrate's court. Ward Brothers Plant Hire was also fined £2000 for the original accident and ordered to pay costs of £500, at the trial on 18 September.

The HSE was unable to investigate the vehicle or the site because the company had moved the vehicle back to its base at Langley Moor, Co. Durham the day after the accident, which occurred on 13 December 2000. It also failed to report the incident.

On that day the truck was being driven on an opencast coal site at Prestwick near Newcastle airport, when it lost traction and slid down a slope. The driver, Keith Lumley, suffered bad injuries to his shoulder as a result.

The company pleaded guilty to breaching regulation 12 of the Quarries Regulations 1999, for failing to prepare and keep up to date a suitable written scheme for the systematic inspection, maintenance and where appropriate, testing of any plant at the quarry. It also pleaded guilty under RIDDOR 1995 for failing to report an accident.

As part of its mitigation, Ward Brothers claimed that the director who ordered the vehicle to be moved was "unaware" that the site of an accident was not to be disturbed before investigation. On the issue of failing to report the incident, investigating inspector for the Health and Safety Executive, Greg Anson, told SHP that companies should "read and understand" the RIDDOR 1995 regulations. (taken from SHP Nov 2002)

## **£180,000 fine following reversing vehicle death**

Logistics and distribution company, the Wincanton Group Ltd, has been fined £180,000 following the death of Michael Flint, who died after being hit by a reversing tractor unit.

Aylesbury Crown Court heard that Mr Flint died of multiple injuries after being struck by the tractor unit as he walked through the company's Milton Keynes depot.

The court was told the tractor was doing under 10 miles an hour when the accident happened, but it is believed Mr Flint was hit by a light protruding from the tractor

which knocked him to the floor: he was then crushed as the tractor unit drove over him.

The Wincanton Group Ltd admitted three charges under the Health and Safety at Work Act 1974. The charges were: failing to maintain a safe system of work; failing to implement safety control procedures and failing to provide suitable and sufficient traffic routes at the site and yard.

The company was fined £60,000 for each of the offences. Milton Keynes Council, whose environmental health division brought the prosecution, were awarded costs of over £19,000.

Chris Smith concluded: "This case highlights the fact that self-employed people need to be aware of health and safety regulations, and their duties towards others."

### **Kiln demolition led to asbestos exposure**

Housing developer Morris Homes appeared before Cannock magistrates for failing to ensure that Dunton Demolition, the firm it hired to bring down a former village glassworks, knew that large quantities of asbestos were present in the building. A member of the public spotted asbestos "flying about" in Kinver as the brick built kilns were demolished, and reported the matter to the HSE.

A HSE spokeswoman said that following the call inspectors visited the site and found an asbestos survey had not been carried out. HSE immediately issued a prohibition notice. The next day it was confirmed there was asbestos in the rubble and a major operation was launched to clear the site.

An HSE report said: "The kilns were full of asbestos and their uncontrolled demolition caused widespread contamination. No-one on site had received any asbestos awareness training."

Morris Homes admitted failing to ensure Dunton had the competence and resources to do the job and did not prepare a health and safety plan or make sure the planning supervisor was given information about the presence of asbestos, not making an adequate safety plan, failing to prevent its employees being exposed and not preventing the spread of asbestos.

The companies were fined £12,000 each.  
(taken from Occupation Safety Dec 2002)

### **£320,000 rap for high-street scaffolding collapse**

Taylor Woodrow Construction Limited and scaffolding contractor RMD Kwikform have jointly been fined a total of £320,000 following the collapse of 30 tonnes of scaffolding from a 12-storey tower block on to a Cardiff city centre main street.

Both firms pleaded guilty to all the charges. RMD was fined £60,000 on each of four counts: for breaching s3(a) of the HSWA 1974 for failing to protect non-employees, and three charges under the Construction (Health and Safety and Welfare) Regulations 1996: reg.6(2) for failing to erect a suitably braced scaffold; reg.6(8) for failing to erect scaffolding under the supervision of a competent person; and reg.28

for failing to give suitable training to those putting in the ties to secure the scaffolding to the building. The company was also ordered to pay costs of £26,200.

Taylor Woodrow admitted a charge of breaching s3(1) of the HSWA 1974 for failing to protect non-employees and was fined £80,000 with costs of £13,100.

Cardiff Crown Court heard that the building was being converted from an old AA office block into luxury flats by Taylor Woodrow Construction. Scaffolding had been erected around it on all four sides to a height of 40 metres. After winds of up to 87 mph had been recorded on the evening of 12 December 2000, the scaffolding on two sides of the building collapsed, just after midnight. Some of it dropped east on to the adjacent railway line and just before a train went past, and some fell north on to the main road "enough to potentially kill anyone walking along the road according to HSE Inspector, Andrew Knowles, who led the prosecution.

The court watched the incident on video, which had been recorded via CCTV.

"Had the scaffolding been installed to the appropriate BS 5973: 1993 standard and properly designed in accordance with codes of practice, we feel confident the building would have suffered only minor damage", Knowles told SHP.

The HSE's investigation found that although there should have been 300 scaffold ties, only 97 were actually installed and those that were installed had not been properly hammered home with a special punch, and were therefore not effective. "Non of the ties we looked at had been installed properly," said Knowles. In addition, the individuals who installed the scaffolding had not been properly trained or given the correct equipment to install the ties. "It was basically poor equipment to install the ties. "It was a catalogue of errors," he said. "It was basically poor equipment, poor supervision, poor management."

In mitigation Taylor Woodrow said it had entrusted the work to specialists, who were not the cheapest, and had relied on their expertise. With hindsight the company realised it should have inspected the scaffolding itself. It has now trained 43 junior and middle managers to inspect scaffolding properly and said that in future it would carry out independent checks on the design of scaffolding.

RMD said it accepted its share of responsibility for the incident and had rolled out a programme of training across all its depots.

Judge Roderick Denyer said in court that it was a matter of good fortune that no-one had been killed or injured. If the collapse had taken place during the day, when the street was busy with shoppers, the consequences could have been far more serious.

Knowles said: "The whole incident shows that inadequate attention had been paid to the design of scaffolding, the adequacy of the chosen tying-in method and the failure to supervise those doing the work, and this is of great concern.

Those are the three lessons to be learnt from this case."

## **Fatal fall contractor escapes hefty rebuke**

Despite being found guilty of four breaches of health and safety law, which resulted in a fatal accident, a demolition contractor has been fined a total of just £1,400.

In setting the fine, the judge at Kings Lynn Crown Court took into account the financial standing of the defendant Kenneth Rounce, stating that a higher fine of around £15,000 would have been imposed if he had been in a position to pay. Rounce had pleaded not guilty to all four charges.

The trial, which took place on 4 December 2002, arose from an incident on 2 September 2000 in which a self-employed welder was killed. Neil Ward, 37 sustained fatal injuries when he fell through the fragile roof on an old farm building in Aylmerton, Norfolk.

Rounce had contracted Mr Ward to remove asbestos sheets on a building at the Church Farm site. He was found guilty of arranging the work to be carried out without being reasonably satisfied that Mr Ward had the competence for the job - an offence under reg.8(3) of the Construction (Design and Management) Regulations 1994.

A second charge of failing to ensure that a place of construction work was made and kept safe, without risk to a worker's health, was issued under reg.5(2) of the Construction (Health, Safety and Welfare) Regulations 1996.

Two further charges were made under reg.7(1) and reg.10(1) of the 1996 legislation. Respectively, these related to failing to prevent a fall through a fragile material: and failing to ensure that demolition work was planned and carried out safely. The judge also ordered Rounce to pay costs of £1000.

In mitigation, Rounce's barrister said that a scissor lift had been supplied to Mr Ward to enable him to carry out the work. However, Rounce had assumed that Mr Ward knew how to operate it and left no written instructions. The court also heard that Mr Ward was walking across part of the roof which he wasn't working on when the tragedy happened.

HSE principal inspector Tricia Dair said: "It is imperative that work is properly planned and supervised, that full instructions are given to the workforce, and that only a competent person carries out demolition work."

## **Resident drowns in pond**

A residential home in Birmingham has been fined £7,000 and ordered to pay costs of nearly £2,000, after a 90-year-old woman who lived there drowned in a garden pond.

Phyllis Hindle was found lying face down in the pond at the home in April 2001.

Birmingham magistrate's court heard how the pensioner had wandered into the back garden unseen. It emerged in court that the keys were left in the back door.

When investigating the accident, health and safety officers discovered that there were no effective procedures in place for checking if there was anyone in the garden before locking the door. Nor was there any system in place for monitoring who was

responsible for the door keys, so residents were allowed to gain access to the garden without staff being aware.

Bryony House Ltd. In Selly Oak, Birmingham, pleaded guilty to breaching the Health and Safety at Work etc Act 1974.

Councillor Margaret Wells, Chair of the Public Protection Committee, said, "This was a tragic accident and I appeal to all residential care homes to make sure they have carefully considered all the hazards on their premises and have put appropriate precautions in place to prevent serious injuries to residents."

## **Automated defibrillators in public places are saving lives**

Three years ago the Metro Centre shopping complex became the first site in the country to have automated external defibrillators (AEDs) installed as part of the government funded initiative to provide these life saving devices in busy public places.

Since then 681 AEDs had been installed at 100 sites around the country – far exceeding the target of 72 sites. And over 4,000 people have received training in Basic Life Support skills and the use of an AED.

Reports to date suggest that there have been 20 survivors as a result of this programme.

Health Minister, John Hutton said: "Twelve thousand people each year suffer a cardiac arrest in a public place and the introduction of defibrillators in railway stations, shopping centres, airports and bus stations across the country is increasing the chances of survival for many of those people".

Professor Sir Charles George, Medical Director at the British Heart Foundation comments, "Every two minutes somewhere in the UK someone has a heart attack and approximately one third will die before reaching hospital from a cardiac arrest. Normal rhythm can be restored if a defibrillator is used within around five minutes and the chances of survival are doubled if emergency life support (ELS) is given.

"The wider availability of defibrillators in the community will increase people's chances of survival as has already been demonstrated by the Department of Health's initiative. This initiative complements work done by the British Heart Foundation in providing GPs and other first responders with defibrillators as well as co-ordinating training in ELS through the Heartstart UK scheme."

In England, 112,000 people die each year from coronary heart disease and nearly 57,000 die from heart attacks. About 1 in 5 people who suffer cardiac arrest do so in a public place.

There is compelling evidence that defibrillation at the earliest possible point after a person collapses from cardiac arrest can significantly increase their chances of survival. These modern defibrillators are simple to use and only require minimal training.



An AED monitors the heart's activity and gives instructions to the user. The AEDs contain built-in-fail safe computer software which analyses a cardiac rhythm and will not deliver an electric shock to a person whose heart does not require this treatment. The AEDs are housed in cabinets and can be strategically place in the public domain. The number of defibrillators installed at a site is determined by the criteria that an incident could be responded to within two minutes.