

## Recent Prosecutions

There have been 2 cases recently which should alert everybody to their own responsibility for the Health and Safety of themselves and others.

Case Number 1:

### **Worker made to pay £700 for causing Labourer's fall**

A building worker who forgot to secure a scaffolding guardrail he loosened has been made to pay £700 in compensation to a fellow worker who was seriously injured when the guardrail gave way.

The 42-year-old labourer broke his back after falling nearly 3m to the ground at a care home building site in Cheddar in January this year.

The Bristol man, who asked not to be named, remains unable to work and may never be to carry out manual labour again.

Taunton Magistrates' Court was told that a fellow builder, David Dix, 52, loosened a scaffold guardrail to try and resolve a site problem he had encountered, but failed to tighten it up properly again.

Shortly afterwards, the labourer was emptying a muck bin when the guardrail gave way. Dix from near Bath pleaded guilty to breaching safety regulations and was ordered to make the compensation payment to the injured labourer.

After the hearing, HSE inspector Sue Adsett, said: "David Dix took it upon himself to adjust some scaffolding when he was not authorised to do so, with disastrous consequences.

"He had no ulterior motive – like most construction workers he was simply trying to get on with the job when a problem arose that he was trying to overcome. The consequences of the incident have had a huge impact upon him as well."

Case Number 2:

## **Site Manager ordered to pay £77,500 in Court Costs**

A site manager has been ordered to pay £77,500 in court costs following the death of a bricklayer.

Chestnut Homes and their site manager Peter Tute were both prosecuted in September following the death of Justin Gillman who fell backwards through unguarded scaffolding while working on a residential building site in Skegness on 26 February, 2010.

Chestnut Homes was fined £40,000 and Tute ordered to carry-out 240 hours of community service.

The Judge adjourned a decision on costs but has now decided Chestnut Homes and Tute must both now pay £77,500 each. They were given 28 days to pay.

An HSE investigation into the tragedy discovered serious safety failings which included allowing untrained people to build scaffolding, failing to check it was safe for use and for failing to ensure the safety of workers once it was in use.

The court heard that Gillman and a colleague were told by Tute to extend some scaffolding around the walls of a block of three terraced houses being built.

Neither were qualified or had any experience of erecting scaffolding, and as the site manager Tute should not have entrusted them with the task.

HSE inspectors established that Tute did not provide Gillman or his colleague with any instructions in how to build the scaffolding and left them to improvise and get on with it.

They built a scaffolding platform that had no guard and the structure was a different height to existing scaffolding on the rest of the plots.

According to the Scaffold Inspection Record for the site, the whole scaffold was inspected on the day of the tragedy and was adjudged as being safe by Tute.

On the day of the fatal fall, the weather was too poor for bricklaying so Gillman and his colleague decided to load out the scaffolding with bricks for work the following Monday.

Having loaded out two sides of the scaffolding, Gillman loaded a further band of 80 bricks on a trolley and pulled it backwards, past some guard rails that were raised out of the way, and up a makeshift ramp onto the scaffolding.

Gillman fell backwards from the end of the unsafe scaffold where there was no guard rail to prevent him falling. The band of bricks he was pulling landed on him, and he died at the scene of his injuries.

**Both these cases should highlights to all employees that they could be held responsible in the event of an accident at work. Even though these are both Construction accidents, it does not mean that an accident in an office will not have the same outcome.**

**Everybody has a duty of care to their colleagues at work – it is the law!**

Some essential HSE Guidance has been updated:

### **Updated Guidance on Controlling Hazardous Substances in the Workplace**

Information on controlling substances that are hazardous to the health of workers has been updated to help businesses comply with legal requirements.

The Health and Safety Executive (HSE) has revised its Approved Code of Practice (ACOP) to clarify and simplify practical advice to help dutyholders comply with the requirements of Control of Substances Hazardous to Health (COSHH).

Contained within an updated document, the revised guidance is aimed at management, supervisory staff, safety representatives and technical specialists (e.g. occupational hygienists, consultants etc).

The revisions reflect other ongoing reviews of technical guidance associated with COSHH, e.g. for Local Exhaust Ventilation (LEV); and on Health Surveillance, and clarify specialist terminology wherever possible.

The changes follow a period of public consultation and HSE Board and ministerial approval.

The revised ACOP is available free on the HSE website at:

<http://www.hse.gov.uk/pubns/books/l5.htm>

## Revised Guidance to protect the Health, Safety and Welfare of Workers

The Health and Safety Executive (HSE) has published new help for employers on how to protect the health, safety and welfare of their workers.

Following consultation, HSE has reviewed and updated the Workplace Regulations Approved Code of Practice (ACOP) (L24) to make it easier for employers, building owners, landlords and managing agents to understand and meet their legal obligations.

The ACOP was one of several identified for review and revision, consolidation or withdrawal in line with a recommendation by Professor Ragnar Löfstedt in his report *Reclaiming health and safety for all*.

The Workplace (Health, Safety and Welfare) Regulations 1992 cover a wide range of health, safety and welfare issues and apply to most workplaces except for those involving work on construction sites, those who work in or on a ship and those who work below ground at a mine. Legal responsibilities to protect workers' health and safety are not altered by any changes to the ACOP.

HSE spokesman, Chris Rowe, said: "Across HSE we are working hard to ensure that employers have access to good quality advice which makes clear what they need to do to protect workers.

"The revised ACOP has not only been updated, it will help employers understand the regulatory requirements on key issues such as temperature, cleanliness, workstations and seating, toilets and washing facilities."

The review of and subsequent revision to the Workplace ACOP was subject to public consultation and the changes were agreed by both the HSE Board and the minister of state for responsibility for health and safety.

The revised ACOP is available free on the HSE website at:

<http://www.hse.gov.uk/pubns/books/l24.htm?ebul=gd-cons/nov13&cr=14>

Finally, there may be some respite ahead from those dreaded potholes on the roads:

## **Spray-on system fixes Potholes in 3 minutes**

Balfour Beatty road gangs are using a new “spray” repair for potholes which can fix them in just three minutes. Balfour has been using the system from specialist supplier Velocity on its highways maintenance contract with North Somerset Council.

The ‘Spray Injection’ patching technique allows Balfour to repair nearly 700 potholes a week across the region.

The method is also being used on the company’s contract in Herefordshire and is being considered for roll-out to other highways maintenance operations.

The Velocity unit is a mobile mixing plant carrying high-grade road aggregate and bitumen emulsion which is controlled by the specialist operator.

Potholes are initially cleaned and dried with warm air from the delivery hose before a bond coat is sprayed into the cracks and crevices. A controlled flow of fully coated aggregate is then introduced to fill the pothole before the repair is then compacted and swept.

Potholes can be repaired in around three minutes – compared to up to an hour using more conventional methods.

Steve Helliwell, Operations Director at Balfour Beatty Living Places said: “We understand that poor road conditions are a major frustration for motorists, as are delays caused by the essential work to repair and maintain the network.

“We are therefore always looking out for new technologies and approaches which limit disruption and allow us to make more repairs.

“We’re very pleased with the performance of this technology, which is another important tool in our work to maintain the country’s highways.

“It allows us to carry out work quickly and safely, and also provides a better method of undertaking proactive preventative work to reduce surface deterioration.”

Councillor Elfan Ap Rees, North Somerset Council’s Executive Member for Highways, said: “We have been very pleased with the initial results of this innovative answer to pothole patching, which is enabling us to better keep pace with the problem across North Somerset, speeding up the process and allowing us to respond more quickly and efficiently to residents’ concerns.”

Phill Lewis, Sales Manager at Velocity said: “Velocity is confident that the process is a cost effective productive solution for the rural network.

“By working closely with Balfour Beatty on preventative programmes of maintenance, we can stop further deterioration of the unclassified network, which sometimes receives less attention than larger roads”