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Callsafe Services Ltd

CONSTRUCTION HEALTH & SAFETY CONSULTANTS & TRAINERS

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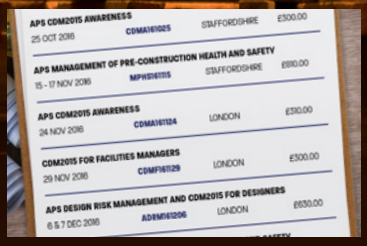
Judicial review of HSE Appeals Process for FFI



Latest Course Schedule

Update on the latest prosecutions

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NEW COURSE

MANAGING SAFELY IN CONSTRUCTION

FULL COURSE DETAILS ON PAGES 6-7

COURSE TYPE	OPEN TO PUBLIC
LOCATION	SUTTON COLDFIELD
DATES	6, 7, 8, 13 & 14 DECEMBER 2016
PRICE	£999.00, PLUS VAT, PER DELEGATE.

"THE CONTENT OF CALLSAFE TODAY IS AN ENHANCED VERSION OF THE CONSTRUCTION HEALTH AND SAFETY NEWS, CONTAINING SIMILAR, BUT ENHANCED, INFORMATION."

editorswelcome

Dave Carr Managing Director, Callsafe Services

We are still seeking any suggestions for improvement to on the content and format of CALLSAFE TODAY.

If you have any particular subject, related to health and safety please, that you would like further information and/or our opinions on, we would be delighted to provide these in future editions, or privately, if required.

Suggestions and/or requests please let us know by sending them to us via **enquiries@callsafe-services.co.uk.**

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BUILD UK LAUNCHES SITE INDUCTION GUIDANCE

Build UK continues its commitment to health and safety with the launch of new industry guidance on conducting construction site inductions.

The Site Specific Health and Safety Induction Guidance, has been drafted in consultation with, and the full support of, Build UK members is designed to encourage best practice and increase the effectiveness and efficiency of the on-site induction process.

Site inductions are delivered daily across the UK with the objective of briefing workforces on the health, safety and environmental aspects relating to the construction project they are about to work on, with Build UK's guidance providing a breakdown of what an effective induction should include. By reinforcing the purpose of site inductions and the importance of ensuring that all operatives working on-site are aware of the project's ongoing activities, specific site rules and hazards and risks, the guidance provides a consistent approach which is designed to improve health and safety standards across UK construction sites.

The new guidance, which comes at a time of great activity for Build UK following the Safety Helmet Colours Standard and the news that Highways England will adopt the initiative from 2017, further emphasises the positive impact Build UK continues to have on the industry's health and safety agenda.

Build UK Chief Executive Suzannah Nichol MBE said:
"Site inductions play a vital role in the running of safe and healthy construction projects. By establishing a clear and consistent way of delivering essential information Build UK aims to improve on-site communication and ensure that every induction is both informative and worthwhile for everyone."

SAD NEWS

I have to inform all of you who knew Robert Burns (Robbie/Rabbie) that he has lost his long-term battle with cancer, and passed away at home with his family on Saturday.

He was diagnosed with lung cancer about a year ago, but characteristically he remained entirely positive and determined to fight the disease, and didn't even want it discussed. He kept working as the Resident Principal Designer for the Environment Agency in the North-East, on behalf of Callsafe Services Limited, and stayed in charge till about a week before his death.

Robert started his working life as a bricklayer and went to University later to study geography. He always liked to take the trowel out of a bricklayer's hand and say, 'Not that way. This is the way to do that job'.

His father was a doctor in Wishaw and his mother came from a crofting family on Skye, the 'Misty Isle'. He talked about walking in the Cuilin Mountains as a boy with his grandfather.

You may not know that he was a professional keyboard player, guitarist and singer. Always welcome in bars and restaurants where music is appreciated at home and abroad.

He was a big man and a big personality. He loved his job and he loved people. He was decisive, there were very few accidents on his watch, he looked after us all and we'll miss him.

He leaves his wife Marie, his daughters Siobhan and Corinne, his son Robert and grandson Stephen.

Condolences to his family, friends and colleagues from us all at Callsafe.

BREXIT AND HEALTH & SAFETY LAW

On 3rd October 2016 Health and Safety at Work magazine reported on the government's emerging plans for Brexit include transposing all EU law into UK law on day one of Brexit, due to be in spring 2019, and then reviewing and possibly repealing individual regulations later.

The announcement came in statements from prime minister Theresa May and David Davis, minister of state for exiting the EU, during the Conservative party conference.

They also revealed that the government would trigger Article 50 by the end of March 2017, and conclude the two negotiation process with the EU by spring 2019.

The "Great Repeal Bill" will make its passage through parliament at the same time as EU trade and exit negotiations are being progressed. It would remove the European Communities Act from the statute book, and at the same time transpose all existing EU law into British law.

This would end the jurisdiction of the European Court of Justice in the UK and also enable parliament to amend and cancel any EU-derived legislation in the future.

The move is designed to give businesses consistency on the regulatory environment, and appears to be in line with the arguments put forward by manufacturers' lobbying organisation the EEF in a report two weeks ago.

Britain and the EU: manufacturing an orderly exit, written with law firm Squire Patton Boggs, pointed to strong support among manufacturers for the UK to continue complying with EU regulation and directives.

On health and safety, it argued that: "Fundamental change is likely to be extremely disruptive to those businesses who use health and safety performance as one important aspect of their corporate social responsibility credentials.

"EEF members argue that all UK health and safety legislation derived from EU directives should be grandfathered across when we exit the EU and then individually reviewed following exit."

Addressing the Conservative party conference, Davis said: "To ensure continuity, we will take a simple approach. EU law will be transposed into domestic law, wherever practical, on the day we leave.

"It will be for elected politicians here to make the changes to reflect the outcome of our negotiation and our exit.

"That is what people voted for: power and authority residing once again with the sovereign institutions of our own country.

"That way, when we leave, we will have provided the maximum possible certainty for British business – and also for British workers."

Responding to the news, Carolyn Fairbairn, director general of the CBI, said: "With the Great Repeal Bill we now know that on the day the UK leaves the EU, the rules businesses must follow will be broadly the same as they are today. As long as this does not lead to a bonfire of good regulation and maintains consistent rules so companies can trade easily with EU neighbours, this has the potential to help.

"But businesses cannot continue to operate in the dark in other areas. The decisions they face today are real and pressing. The government's desire to play its negotiating cards close to its chest must be tempered by clear indications on how we will trade with the UK's most important partner and how firms will be able to employ the people needed to drive growth.

"A clear roadmap for how the government will consult businesses of all sectors and sizes is essential to increase confidence that these complex decisions are taken on the basis of fact and a genuine understanding of the economic implications."

COMMENT ON THE HSE'S PROPOSED CHANGES TO RISK ASSESSMENT GUIDANCE

The Health and Safety Executive (HSE) wants to make some changes to their current guidance on risk and we want to hear what you think before they publish it. Please take some time to read our draft guidance and complete a short questionnaire.

THE PROPOSED CHANGES

The HSE are concerned that many people see the requirement to record significant findings of a risk assessment as something separate from other things they do to manage their business.

A risk assessment is not about creating huge amounts of paperwork; it is about identifying sensible measures to control the risks in your workplace. The HSE wants to put more emphasis on controlling risk and less on written assessments, without reducing standards.

They want to make it very clear to businesses that risk assessment should be part of day-to-day business management. Your risk assessment can be part of an existing business document, such as:

- your workplace 'housekeeping' rules
- manufacturers' instructions
- training materials
- method statements
- safety data sheets

The main thing is to make sure the way you record your significant findings helps you manage risk well.

COMPLETE THE HSE QUESTIONNAIRE

We have highlighted The HSE's proposed changes are highlighted in their core leaflet Risk assessment: A brief guide to controlling risks in the workplace and they want to hear what you think. Tell the HSE if:

- you find these changes helpful
- it is clear that you do not need to keep a special 'risk assessment' document
- it is clear that other documents you already have can do the same thing
- you think this works in practice and whether it would save you time

Answer the questionnaire on changes to risk management guidance

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JUDICIAL REVIEW OF HSE APPEALS PROCESS FOR FFI

On 6th October 2016 Health and Safety at Work magazine reported that a facilities outsourcing company has been granted a judicial review hearing in an attempt to have its fee for intervention (FFI) bill overturned and the Health and Safety Executive's (HSE's) current system for deciding FFI appeals quashed.

OCS Group UK alleges that the HSE acts as "prosecutor, judge and jury" during its procedure for challenging a notification of contravention, the formal notice that triggers an FFI bill.

According to a document seen by Health and Safety at Work, the firm's argument questions whether the retrospective process for establishing the legitimacy of an FFI notice complies with natural justice, the principle that a person cannot be a "judge in their own cause" and that a defence must always be fairly heard.

On 20th September, granting OCS permission for the judicial review to proceed, Mr Justice Kerr said: "It is arguable that the HSE is, unlawfully, judge in its own cause when operating the FFI scheme; and that the scheme is either unlawful or being operated in an unlawful manner."

An HSE spokesperson told Health and Safety at Work: "The order granting permission to OCS Group UK to proceed with a claim for judicial review is the first stage of the judicial process. The HSE is defending the claim and is awaiting a date to be fixed for the hearing of the case. As this relates to ongoing proceedings, it would be inappropriate for the HSE to comment further at this time."

OCS's claim relates to a notice of contravention it received in August 2014 over its use of strimmers at Heathrow airport, where the HSE alleged that it had breached Regulations 6(2) and 7(2) of the Control of Vibration at Work Regulations.

The firm was subsequently issued with two bills totalling £2306. However, OCS denied that it was in material breach of the Regulations. It raised an official "query" with the HSE that was rejected by its internal team. It then escalated the matter to a "dispute" that was also knocked back by the HSE's disputes' panel.

In the legal papers submitted to the court in advance of the hearing, OCS is calling for a "fair procedure and an independent means of resolving disputes" where witnesses can be called, evidence examined and representations made.

Judicial review is a legal process that allows people to challenge the lawfulness of decisions or actions by public bodies. According to figures from the Ministry of Justice, in the first six months of 2016, there were 2222 applications for judicial review, with 57% related to immigration and asylum claims. Around 45% were granted permission to proceed to a first hearing. However, only 18 reached the final hearing stage, the stage that the OCS claim has reached, and of these only seven were upheld.

A date for the full hearing in the OCS case has not yet been set. Mike Appleby, a solicitor for Fisher Scoggins Waters, has confirmed that he was acting for the claimant.

Steffan Groch, head of the regulatory department at law firm DWF and chair of the Health and Safety Lawyers Association, said that, in defending the FFI appeals process, the HSE might "downplay its status".

He said: “They will probably say ‘this isn’t a criminal offence; this isn’t anything like a prosecution where you need a full appeals process, it’s something akin to a parking penalty’.

“You might say ‘we can understand why they’d want all of those safeguards in place if someone is going to get locked up or deported, but this isn’t the case here, this is a civil penalty, it’s a payment only arrangement, it has no impact upon any civil or criminal proceedings’.”

In the document, written by counsel to the claimants, Keith Morton QC of Temple Garden Chambers, and known as the statement of facts and grounds OCS alleges that the HSE has a “financial interest in imposing, maximising and upholding fees for intervention”.

The document also asserts that paying an FFI invoice amounts to admitting a criminal offence, saying: “The condition precedent to issuing and upholding the FFI is an opinion that the dutyholder is in material breach of a statutory provision and has committed a criminal offence. That is recorded by the HSE. If accepted, there is an implied admission of guilt. If challenged unsuccessfully there is a finding that the opinion that an offence had been committed was correct.”

The Health and Safety (Fees) Regulations, which provide the statutory underpinning to the FFI scheme, places a duty on the HSE to recover the cost of regulation from dutyholders found to be in “material breach” of the law, shifting the financial burden from the taxpayer to non-compliant businesses.

A material breach is when, in the opinion of an HSE inspector, there has been a contravention of the law that requires them to issue a notice in writing of that opinion to the dutyholder.

The Regulations also require the HSE to establish an appeals process so that dutyholders can query notification of contravention. The scheme that the HSE devised has two levels for querying notices.

The HSE's FFI guidance states that dutyholders who have a concern about a notice of contravention – such as whether there really was a material breach, the method of payment or requests for further information – can raise a "query", which will be examined by a member of the HSE's FFI team.

"The appeals process is so daft that most people don't bother and make a commercial decision [to pay the FFI invoice]."

Dutyholders not satisfied with the response can raise a "dispute" and submit reasons for challenging the invoice. A panel comprising HSE staff, managers independent of the management chain responsible for the work that generated the invoice, and an independent representative will consider whether the disputed invoice should be upheld, varied or cancelled. The independent member is drawn from a pool of industry and trade union representatives.

However, there is no right for dutyholders, their representatives or HSE inspectors to appear before the panel.

If the dispute is not upheld, the invoice is still payable and the HSE will also issue an additional invoice to cover the costs incurred dealing with the dispute. If payment is not made, the HSE will attempt to recover the debt in the county courts.

According to the OCS document, which sets out factual description of the case and the legal argument for granting permission for a judicial review, it had carried out all the appropriate assessments for hand arm vibration and limited the amount of time that workers used the strimmers.

An independent panel that carried out a review of the FFI scheme in June 2014 found that, between the programme's inception in October 2012 and January 2014, 21,261 invoices were issued under the FFI regime, raising over £10.6m for the HSE.

Some 697, or 3.3%, were queried and three went to the dispute stage. None were challenged on the basis that there had not been a material breach.

But lawyers acting for the recipients of FFI invoices have expressed misgivings over the current system. One told Health and Safety at Work that "the FFI review process is very arbitrary and most [appeals] are rejected for the flimsiest of reasons, i.e. that's what the inspector recorded so that's what we will charge."

A second lawyer commented that "the appeals process is so daft that most people don't bother and make a commercial decision [to pay the FFI invoice]."

courseschedule

DISCOUNTS AVAILABLE FOR MULTIPLE BOKKING ON A SINGLE COURSE AND/ OR PAYMENT ONE MONTH BEFORE THE COURSE COMMENCEMENT

APS CDM2015 AWARENESS

24 NOV 2016	**CDMA161124**	LONDON	£310.00

CDM2015 FOR FACILITIES MANAGERS

29 NOV 2016	**CDMF161129**	LONDON	£300.00

APS DESIGN RISK MANAGEMENT AND CDM2015 FOR DESIGNERS

6 & 7 DEC 2016	**ADRM161206**	LONDON	£630.00

APS MANAGEMENT OF PRE-CONSTRUCTION HEALTH AND SAFETY

13 - 15 DEC 2016	**MPHS161213**	LONDON	£840.00

IOSH MANAGING SAFELY IN CONSTRUCTION

6-8, 13-14 DEC 2016	**MSC161206**	SUTTON COLDFIELD	£999.00

COURSES FOR THE FIRST QUARTER OF 2017 WILL BE INCLUDED IN THE NEXT CALLSAFE TODAY

TRAINING & EVENTS

CALLSAFE PUBLIC COURSES

We have programmed a number of public courses as follows. The detailed programme of courses is shown on the previous page.

MANAGEMENT OF PRE-CONSTRUCTION HEALTH AND SAFETY 3 DAY COURSE

This APS accredited course is aimed at those persons who will be performing the duties of the Principal Designer on behalf of their employer, who has been appointed to this role by the Client.

It provides knowledge on the requirements, methods that could be used to achieve these requirements and the personal qualities necessary. The course also provides for the additional services that could be offered by the Principal Designer, or as a separate commission, for advising and assisting the Client with the Client's duties.

DESIGN RISK MANAGEMENT AND CDM2015 FOR DESIGNERS 2 DAY COURSE

This APS accredited course is aimed at Designers and Design Risk Managers, providing a full understanding of the Designers' duties under CDM2015 and the options that are available for achieving these obligations.

The course could also be suitable for Principal Designers if they are experienced in the design requirements of CDM2007. Discussions and debates are encouraged throughout this course.

CDM2015 AWARENESS 1 DAY COURSE

This APS accredited course is designed to provide all persons involved in construction projects, including current and potential clients, project managers, principal designers, designers, principal contractors and contractors with a broad overview on the CDM Regulations 2015.

CDM2015 FOR FACILITIES MANAGERS 1 DAY COURSE

This non-accredited course is designed to provide Facilities Managers, and designers and contractors working for Facilities Managers, with an understanding of their duties under the CDM Regulations 2015. Larger fit-out and refurbishment projects will be discussed as well as planned maintenance and reactive repair activities.

MANAGING SAFELY IN CONSTRUCTION 5 DAY COURSE

This IOSH accredited course has been developed to provide managers, designers, etc. the knowledge and skills necessary to enable them to recognise the hazards likely to be present in the construction industry and the actions needed to control and manage them.

The course is suitable for Principal Designers, Designers, Project Managers, Facilities Managers and Managers of any construction-related organisation.

Further details of these, and other, courses can be found on our website: **www.callsafe-services.co.uk**, or by contacting Gemma Esprey at: **gemma.esprey@callsafe-services**.co.uk or by phone on: 01889 577701

IN-HOUSE COURSES

The above public courses, and many other CDM and other health and safety courses are offered as 'in-house' courses, where the trainer presents the course at a venue provided by the delegates' employer, and are priced at a daily rate.

Details of all courses offered can be found at: **www.callsafe-services.co.uk**, most of which can be customised to a particular customer's needs.

latestprosecutions

ALTON TOWERS' OWNERS FINED £5MILLION OVER SMILER CRASH

The owners of Alton Towers have been fined £5million with costs of £69,955.40 following a rollercoaster collision which left 16 people injured, a number of them seriously.

Two young women on the Smiler ride suffered leg amputations and others suffered severe injuries when their carriage collided with a stationary carriage on the same track on 2 June 2015.

Stafford Crown Court heard that on the day of the incident engineers overrode the Smiler's control system without the knowledge and understanding to ensure it was safe to do so.

A Health and Safety Executive (HSE) investigation found no fault with the track, the cars, or the control system that keeps the cars apart from each other when the ride is running.

Investigators found the root cause to be a lack of detailed, robust arrangements for making safety critical decisions. The whole system, from training through to fixing faults, was not strong enough to stop a series of errors by staff when working with people on the ride.

Following the incident Alton Towers made technical improvements to the ride and changed their systems.

Merlin Attractions Operation Ltd pleaded guilty to breaching section 3(1) of the Health and Safety at Work Act etc, 1974 and were fined £5million with costs of £69,955.40.

Neil Craig, head of operations for HSE in the Midlands said: "People visiting theme parks should be able to enjoy themselves safely. On 2 June last year Merlin Attractions Operations Ltd failed to protect their customers, they badly let them down.

"This avoidable incident happened because Merlin failed to put in place systems to allow engineers to work safely on the ride while it was running. This made it all too easy for a whole series of unchecked mistakes, not just one push of a button, to result in tragic consequences.

"Since the incident Alton Towers have made improvements to the ride and their safety protocols, and the lessons learned have been shared industry wide."

SELF-EMPLOYED TRADER FINED FOR SAFETY FAILINGS

A Bradford self-employed trader has been sentenced for safety breaches after poor scaffolding arrangements at a domestic property put himself and others at risk.

The HSE prosecuted Mark Podstawski after an investigation found poor planning, the absence of guard rails and a scaffold not of a recognised design, put himself and others, including people on the ground at risk.

Mark Podstawski of Bradford pleaded guilty to breaching Section 3 (2) of the Health and Safety at Work Act 1974 and was given 200 hours community service and ordered to pay £918.02 costs by Bradford Magistrates Court.

After the hearing, HSE inspector Paul Thompson commented: "Mr Podstawski

had been served with a Prohibition Notice six months prior to this incident when he breached the Work at Height Regulations for similar circumstances. This incident could and should have been prevented. Scaffolding should always be erected to the appropriate standards and previous enforcement action should not be ignored".

ROOFING FIRM FINED AFTER WORKER'S LADDER FALL

A King's Lynn roofing company has been prosecuted after a worker fell seven metres from a scaffold access ladder while assisting with chimney repairs.

Kings Lynn Magistrates Court heard how the worker was subcontracted by J Webber Roofing Limited to assist with removing waste, mixing cement and bringing tools up to colleagues who were working on the chimney at a domestic property on Beech Avenue in Kings Lynn on 10 July 2015.

The company had erected a scaffold platform around the chimney with an access ladder attached to it. The worker climbed up the ladder carrying a cement filled bucket with a radio attached to it, on his shoulder. He lost his balance and fell approximately seven metres to the ground. The fall resulted in multiple fractures to both of the worker's wrists and his lower left arm. He required surgery and steel plates and will never regain full use of his hands.

The investigation by the HSE found that J Webber failed to adequately plan work at height which involved manual handling of construction materials and waste up and down scaffold ladders.

J Webber Roofing Limited pleaded guilty to breaching Regulation 4(1)(a) of the Work at Height Regulations 2005 and was fined £5,000 and ordered to pay £1,582 in costs.

Speaking after the hearing HSE Inspector Kasia Urbaniak said: "The risk of falls from ladders is well known. Ladders are being frequently misused where often better specifically designed equipment is easily available.

"This incident which has left a worker without the full use of his hands could have been easily avoided if a 'gin wheel' had been installed on the scaffold platform to transport tools and other construction materials".

CONTRACTOR SERIOUSLY INJURED IN FRAGILE SKYLIGHT FALL

London exhibition venue firm, The Business Design Centre Ltd, and a building contractor have been fined for safety failings after a specialist contractor fell through a fragile skylight.

Westminster Magistrates' Court heard how the Business Design Centre allowed workers to cross an unsafe roof, which contained three fragile skylights and open edges, and failed to prevent contractors crossing the same unsafe roof on a number of occasions.

The court also heard that James Murphy, who had been appointed by The Business Design Centre Ltd to undertake repair work at the site, had led a specialist lead contractor over the unsafe roof on 14 May 2015. As he walked over the unsafe roof the lead contractor fell through a skylight, falling 5.5m. He suffered serious injuries including a shattered pelvis, broken wrist, and a broken elbow.

The HSE investigation into the incident found that the Business Design Centre failed to ensure that access to and from the areas of

latest prosecutions

the roof which required repair was suitable and safe, and that sufficient measures were in place to protect against the risks of falling from height.

James Murphy failed to ensure that the job of accessing and then inspecting the auditorium roof was properly planned.

The Business Design Centre Limited pleaded guilty to breaching Sections 2(1) and 3(1) of the Health and Safety at Work etc Act 1974, was fined £300,000 and ordered to pay costs of £2925,56.

James Murphy pleaded guilty to breaching Regulation 4(1)(a) of the Work at Height Regulations 2005, and was fined £4,000 and also ordered to pay costs of £2925.56.

SUPERMARKET IN COURT AFTER WORKER INJURED IN ROOF FALL

Supermarket chain Tesco has been fined after health and safety breaches led to a worker falling through a skylight.

The employee of Tesco Maintenance Ltd was lucky to suffer only minor injuries after falling 30 feet through a fragile skylight onto the trading area floor of the Tesco Liscard Express store in Liscard Village, Wallasey, on the 13th June 2014.

Liverpool Crown Court heard that the worker was part of a team carrying out repairs to the roof and gutters of the store when the incident occurred.

Tesco Maintenance Ltd and Tesco Stores Ltd were prosecuted by the HSE after an investigation found that no risk assessment or method statement had been produced prior to carrying out the work. The fragile skylights should have been identified and precautions taken, but Tesco Maintenance Ltd had received no information relating to the fragility of the roof from their client Tesco Stores Ltd.

Tesco Stores Ltd pleaded guilty to breaching Section 3 (1) of the Health and Safety at Work etc. Act 1974 and Regulation 10 of the Construction (Design and Management) Regulations 2007 and was fined £200,000 with £712.70 costs.

Tesco Maintenance Ltd pleaded guilty to breaching Regulation 9 of the Work at Height Regulations 2005, Section 2(1) of the Health and Safety at Work etc. Act 1974 and Section 3 (1) of the Health and Safety at Work etc. Act 1974 and was fined £300,000 with £624.60 costs.

Speaking after the hearing HSE Inspector Chris Hatton said: “Contractors should treat all roofs with care and check before starting any work if they are fragile. I am shocked at a company the size of Tesco failing to take even basic precautions to prevent injury to its employees and further, to risk injury to the public”

BOLTON NIGHT CLUB OWNER FINED OVER ASBESTOS EXPOSURE

A Bolton night club owner has been sentenced after admitting a failure to carry out a survey for asbestos before starting on the refurbishment of a local night club.

Manchester Magistrates’ court heard how UK Night Life Limited and its sole director, Charles John McGrath, undertook the management

of a refurbishment project between 1 August and 12 August 2015 on The Level nightclub, Mawdsley Street, Bolton, without an experienced contractor in place to manage the site. Up to 20 workers were potentially exposed to deadly asbestos fibres in order for the club to open in time for Fresher's week and an influx of students to the club.

The site first came to the HSE's attention in August 2015 following a complaint from Bolton Council regarding unsafe construction works throughout the site.

The HSE inspector served a total of three Prohibition Notices and two Improvement Notices, along with a Notification of Contravention for a foreseeable risk of asbestos exposure, a lack of competent site manager, risks of falls from height, unsuitable welfare facilities and inadequate fire safety precautions.

Charles McGrath, sole director of UK Night Life Limited, pleaded guilty to breaching Section 3(1) of the Health and Safety at Work etc Act 1974, and Regulations 5(a) and 16 of the Control of Asbestos Regulations 2012, and was fined £5,720.00 with costs of £3,535.86.

In his summing up, District Judge Sanders remarked that Mr McGrath had chosen to rush through the works with unqualified and inexperienced people running the site on a day-to-day basis. He went on to say that it was clear that these offences amounted to a 'degree of cost cutting at the expense of safety'.

HSE inspector Matt Greenly said after the case: "Mr McGrath totally failed in his duty to protect his workers, subcontractors and anyone else accessing this site from a foreseeable risk of serious harm. Asbestos related diseases are currently untreatable and claim the lives of an estimated 5,000 people per year in the UK.

"The requirement to have a suitable asbestos survey is clear and well known throughout the construction industry. Only by knowing if asbestos is present in any building before works commence can a contractor ensure that people working on their site are not exposed to these deadly fibres.

"The cost of an asbestos survey is minimal compared to the legacy facing anyone who worked on this site. They now have to live with the realisation that due to the lack of care taken by Mr McGrath they may face a life shortening disease at some point over the next 30 or more years, from an exposure which was totally preventable. This case sends a clear message to any company that it does not pay to ignore risks on site, especially to simply keep to a self-imposed tight schedule."

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WORKER INJURED AFTER BEING STRUCK BY CONCRETE SKIP

A site manager and a worker have been fined for safety failings after another worker was struck by a concrete skip at a construction site in South London.

Woolwich Crown Court heard how, on 23 February 2012, Ryan Musgrave suffered a badly broken left leg and fractures to his right ankle and several ribs, when an empty concrete skip (weighing 215kg) became detached from an excavator and fell onto him at the Harris Academy in Welling. He was unable to work for seventeen months.

An investigation by the HSE into the incident found that there was no thorough examination certificate for the shackle on the excavator, and the shackle was defective.

Site manager, Christopher Crowley, pleaded guilty to breaching Regulation 9(1)(a) of the Lifting Operations and Lifting Equipment Regulations 1998. He was fined £1,000, and ordered to pay costs of £2,500.

Self-employed construction worker, Michael Kernan, pleaded guilty to breaching Regulation 8(1) (c) of the Lifting Operations and Lifting Equipment Regulations 1998 and was fined £1,500 and ordered to pay costs of £2,000.

Speaking after the case HSE inspector Melvyn Stancliffe said: "Mr Crowley should have taken the shackle on the excavator out of use when he inspected it two days before the incident as he had not seen a thorough examination report for it.

"The law is clear that lifting accessories must not be used unless they have been thoroughly examined in the previous six months and that there is a report available to prove that.

"Mr Kernan, an experienced construction worker, accepted that he did not fully screw in the pin on the shackle as he should have done and as a result it failed.

"Lifting accessories are not complex items but if they are not used properly or are not thoroughly examined periodically then the consequences can be serious. The practice known as 'backing off', unwinding the pin by a quarter of a turn, is not safe and shouldn't be used.

"This case highlights the importance of ensuring simple checks are carried out properly and that equipment is used correctly".

WORKER SUFFERS SEVERE INJURIES IN ROOF FALL

A roofing company has been fined after a worker fell five metres through a roof sustaining severe injuries.

latestprosecutions

St Albans Crown Court heard how a 32-year old labourer was working for Richardson Roofing Company Limited (RRCL) on a construction site at Kingsley Green, Radlett, Hertfordshire on 8 August 2013.

The worker was fitting battens on the roof around holes for the skylights when he stepped on a membrane covering one of the holes and fell approximately five metres. He sustained two broken wrists and four fractures to the skull and was hospitalised for fifteen days. He has not been able to return to this type of work.

The HSE investigation into the incident found that the hole had been previously covered by boards but these were later removed in order to complete the works up to the hole's edge, leaving the hole visually obscured by the thin roofing membrane. The company failed to properly identify and put in place controls for controlling the hazard of falling through the roof once the boards were removed.

Richardson Roofing Company Limited pleaded guilty to breaching Regulation 4(1) of the Work at Height Regulations 2005, and was fined £200,000 and ordered to pay costs of £6,865.

BUILDING CONTRACTOR PROSECUTED FOLLOWING WORKER'S FALL

A building contractor from Wokingham has been prosecuted after a worker fell and punctured his lung while carrying out demolition work.

Kevin Lipscombe had been asked to dismantle an old shed that was by a new build house. While working on the roof of the shed, Mr Lipscombe lost his balance and fell onto an adjacent old greenhouse. His fall, on 18 December 2014, shattered the glass and punctured his lung.

High Wycombe Magistrates' court heard how Mr Lipscombe was not given any instructions or equipment to dismantle the shed and there has been no suitable risk assessment carried out before the work started.

An investigation by the HSE found that work had not been planned and there was no protection to prevent workers from falling from height.

John David McCormick (trading as Trymac Construction), pleaded guilty to breaching regulation 4(1) and 9(2) of the Work at Height Regulations 2005. He was fined £2,000 for each, a total of £4,000, and was ordered to pay costs of £2,147 with a victim surcharge of £120.

CONSTRUCTION COMPANY FINED AFTER WORKER LOSSES BOTH LEGS

A Cornish construction company has been fined after their worker had to have both legs amputated, around the knee, after being crushed by a dumper truck.

Roger Daw was operating a fully loaded front tipping dumper on his employer's site in Liskey Hill, Perranporth. He drove the dumper down an incline where it became imbalanced and overturned. Mr Daw, who appears to have not been wearing a seatbelt, was thrown from the vehicle, which landed on his legs and crushed him.

Truro Crown Court heard that there were a number of failings that led to the incident. The specific type of truck being used by Mr Daw was not appropriate for the task but no-one on site had assessed the plant equipment's limitations.

The HSE investigation found the company had also not carried out an assessment for any of

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their drivers or their competence in using the plant equipment.

Roger Daw was airlifted to hospital where they had to amputate both of his legs about the knee.

MJL Contractors Ltd pleaded guilty to breaching Section 2(1) Health and Safety at Work etc. Act 1974. They were fined £200,000 and ordered to pay costs of £12,312.56.

HSE inspector Jo-Anne Michael, said "Roger Daw's life has been changed forever. If MJL Contractors Ltd had planned the work properly, assessed the equipment and the drivers this incident would not have happened.

"Companies must learn that risk assessments are there to protect their workers from the real risk that mobile plant can become unstable.

COUNCIL FINED AFTER EMPLOYEE WAS INJURED FROM FALL

EAST RIDING OF YORKSHIRE COUNCIL

A Yorkshire council has been fined after an employee was injured when he fell from a ladder.

Hull Magistrates' Court heard how an employee of East Riding of Yorkshire Council (ERYC) fell from a ladder while descending from a porch roof which was being re-felted. He fell 2.4 metres and suffered two broken vertebrae.

The investigation by the HSE into the incident, which occurred on 23 April 2015, found that the ladder was not tied and there was no edge protection in place for the porch roof. The task had not been risk assessed and decisions regarding safety and equipment were left to the workers.

East Riding of Yorkshire Council pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974, and was fined £40,000 and ordered to pay costs of £664.00.

COUNCIL AND CONTRACTORS FINED AFTER MAN DIES AND ANOTHER SERIOUSLY INJURED IN ROADWORKS

Liverpool City Council and two of its contractors have been prosecuted following two separate incidents involving roadworks on a busy city centre road.

One man died and another was seriously injured while attempting to cross Queens Drive in Liverpool during major resurfacing works in the summer of 2012. Enterprise Liverpool Limited and Tarmac Trading Limited were contracted by Liverpool City Council to carry out the works.

Liverpool Crown Court heard how, on 3 July 2012, a 74-year-old man suffered head injuries after he was hit by a car while using a crossing at temporary lights. One side of the Queen's Drive dual carriageway had been put into a contraflow to allow vehicles to travel in both directions. However, the temporary pedestrian lights were not working and no alternative was provided.

The Court also heard that the following month, on the 19 August 2012, 69-year-old Ernest Haughton died after he was hit by a car while attempting to cross a single lane of traffic on the same road using a temporary pedestrian crossing. However, following complaints from motorists, changes were made to the traffic

Liverpool City Council

control lights to alleviate congestion but this removed the natural break in traffic flow needed to allow pedestrians to cross the carriageway.

A HSE investigation found that Liverpool City Council failed to ensure that the arrangements for managing the roadworks were suitable, including failing to appoint a suitable co-ordinator for the work. Instead they had sought to delegate responsibilities to Enterprise Liverpool Limited.

The investigation also found that Enterprise Liverpool Limited failed to ensure the designs for the traffic management were checked or approved, the construction plan for pedestrian routes and provision of barriers was being followed, and at the time of the incidents provided no safe means of pedestrians crossing the works area or the carriageway.

Tarmac Trading Limited who were responsible for the provision and installation of the traffic and pedestrian management failed to provide alternative assistance for pedestrians at the time of the first incident despite it being known that the temporary lights were broken. A temporary bus stop had also been placed in the middle of the road at the crossing.

When Mr Haughton was killed the temporary lights had been removed, but no alternative control measures were put in place to enable pedestrians to cross the live lane of traffic. In addition a large A-frame sign was placed on the crossing obscuring the view of both pedestrians and motorists.

Liverpool City Council of pleaded guilty to breaching Regulation 9(1) of the Construction (Design and Management) Regulations 2007 (CDM) and were fined £15,000 and ordered to pay £100,000 costs.

Enterprise Liverpool Limited pleaded guilty to breaching Regulation 22(1) of the Construction (Design and Management) Regulations 2007 (CDM) and were fined £25,000 and ordered to pay £80,000 costs.

Tarmac Trading Limited pleaded guilty to Section 3(1) of the Health and Safety at Work etc. Act, 1974 and were fined £1.3 million and ordered to pay £130,000 costs.

Speaking after the case HSE Inspector Jacqueline Western said: "The risks associated with road works are well known in the industry and specific guidance is available to assist with the planning and implementation.

"It is not unreasonable to expect that those who regularly engage in this type of construction work should be well aware of their roles and responsibilities.

"The combined failure of all three dutyholders to comply with their duties on more than one occasion during the Queens Drive resurfacing project, led to one man losing his life and another suffering serious injury. It could quite easily have been two fatal incidents.

"By engaging with the entire project team at the very start of a project, clients like Liverpool City Council, can ensure that a good health and safety culture is embodied throughout the life of the project. Ongoing communication and cooperation between the principal contractors and sub-contractors ensures that the project is being adequately planned, managed and monitored."

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ENVIRONMENTAL SERVICES FIRM FINED OVER ELECTROCUTION OF WORKER

A company providing environmental services has been prosecuted after a worker was killed during asbestos removal work at a Welsh High school.

Newport Magistrates Court heard how the 26-year-old father from Gwent had accessed a ceiling void at Cwmcarn High School on 19 July 2013 to create an enclosure to contain the asbestos during its removal. While he was cutting plastic sheeting he cut into a live electric cable and was electrocuted.

The HSE investigation found that Caswell Environmental Services Ltd had not taken adequate steps to ensure that the electrical supply at the school was isolated before the work was undertaken.

Caswell Environmental Services Ltd were found guilty, in their absence, to breaching Sections 2(1) and 3(1) of the Health and Safety at Work etc. Act, 1974. In sentencing the Judge considered the fact that the company was now in liquidation and delivered a total nominal fine of £10,000 with £1,000 in costs.

WORKER SERIOUSLY INJURED IN MOBILE PLATFORM FALL

A Buckinghamshire waste equipment maintenance firm has been fined after a worker suffered serious head injuries when a mobile elevating work platform (MEWP) overturned.

Geoffrey Hatton was in the process of dismantling a compactor at a site in Wilmslow, Cheshire when the incident occurred on the 19th January 2015.

Minshull Street Crown Court heard that Mr Hatton, who was in the MEWP, and a colleague, were taking large pieces of cladding off the frame of a compactor. A large piece of the cladding came into contact with the MEWP and caused it to fall over. Mr Hatton fractured his skull and two ribs in the incident and spent two months in hospital.

The HSE investigation found serious safety failings by Cole Mechanical Services Ltd. The MEWP was being used outside when it was only suitable for internal work, the firm's employees were not trained in how to use MEWPS or how to safely erect tower scaffolding, and no risk assessment had been conducted for the work being carried out. In addition, at the time of the incident another worker was working on a fragile roof with no protection to prevent falls.

Cole Mechanical Services Ltd pleaded guilty to a breach of Section 2(1)of the Health and Safety at Work etc. Act 1974 and was fined £30,000 and ordered to pay costs of £8995.00.

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