



Health and safety bulletin

September 2020

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Department for Work and Pensions reprimanded by HSE for insufficient social distancing at “The Kremlin”

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Fatality caused while using high pressure water jetting equipment at car manufacturing site leads to £2M fine

On 18 June 2017, Joseph McDonald, an employee of specialist industrial services company Leotec Limited, sustained fatal injuries when he was struck by the end of a flexi lance. [more>](#)

Three Construction firms receive fines totalling a quarter of a million after demolition fatality

Substantial fines were imposed on the firms after a worker suffered fatal injuries while demolishing a building in preparation for a development project on the Isle of Wight. [more>](#)

£200k fine for firm after forklift driven over worker’s foot

A maritime freight and logistics company, Simec Ports (UK) Limited, has been fined £200,000 after one of its workers sustained multiple fractures after a forklift truck was driven over his foot. [more>](#)

Suspended sentence for illegal sale of weight loss drug DNP

A man has been given an 8-month prison sentence, suspended for 18 months, and 300 hours of unpaid work after pleading guilty to a number of offences, including illegally selling DNP for human consumption. [more>](#)

HSE issues Crown Censure to MoD

The Ministry of Defence (MoD) received a Crown Censure by the HSE after a military diver died during a training exercise. [more>](#)

ANY COMMENTS OR QUERIES?

Gavin Reese

+44 20 3060 6895

gavin.reese@rpc.co.uk

Nick McMahon

+44 20 3060 6896

nick.mcmahon@rpc.co.uk

Mamata Dutta

+44 20 3060 6819

mamata.dutta@rpc.co.uk

Michael Porter

+44 20 3060 6720

michael.porter@rpc.co.uk

Blackpool frozen food firm receives penalties totalling £41,000 for selling unfit and out of date food

Eezi Freeze Wholesale Limited, a company which supplies schools, hotels and restaurants, was prosecuted after it was found to be selling food unfit for human consumption and out of date. [more>](#)

Fatal crushing leads to £120k fine

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Bakery fined after worker's hand amputated in bagel machine

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Environmental

Plumpton College prosecuted by the Environment Agency after contaminating local stream with slurry

This prosecution followed an incident in November 2016 when the head herdsman at the College, Stuart Duncan, spread contaminated water with a high amount of cow slurry as fertiliser across a field at Wales Farm, which was owned by Plumpton College. [more>](#)

Tech firm's failure to comply with recycling requirements help pay for mass tree planting at East London Site via an environmental sanction

EMC Computer Systems (UK) Ltd failed to register the packaging waste it produced in 2002 – 2003 and 2008 – 2015. [more>](#)

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HSE undertaking spot inspections in high-risk areas

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Civil Aviation Authority publishes new guidance for crane users

The Civil Aviation Authority (CAA) has published an updated version of its guidance *CAP1096: Guidance to crane users on the crane notification process and obstacle lighting and marking*. [more>](#)

Government introduces Draft Building Safety Bill

The Government has published the Draft Building Safety Bill, which sets out a stringent new safety regime for higher risk residential buildings (HRRBs) over 18m or six storeys high. As drafted, the Bill will amend the Building Act 1984. [more>](#)

HSE statistics show 25% fall in workplace fatalities in 2019/2020

The HSE has published its figures for workplace fatalities in the year to 31 March 2020. The total number of deaths were 111, which was a 25% drop on the previous year's figure of 149 and also the lowest annual figure on record. [more>](#)

Fines and sentences

Department for Work and Pensions reprimanded by HSE for insufficient social distancing at “The Kremlin”

The Department for Work and Pensions (DWP) has been warned after the Health and Safety Executive (HSE) found COVID-19 related contraventions of health and safety law after a visit to its Leeds Quarry House office, known locally as “The Kremlin” because of its architecture.

On 25 August 2020, the HSE inspector took photographic evidence showing walkways that are too narrow and too close to desks, and inadequate distancing between desks and coat stands which created crowding at certain points in the day. Stairwells were not wide enough to allow two-way traffic, and therefore ‘up’ and ‘down’ stairwells should have been designated, but the DWP had failed to do so.

The inspector also criticised a line manager who allowed staff to congregate to be given instructions for the following day. The letter sent to the DWP stated that line managers should lead by example and encourage compliance with the rules. Regarding communal areas, whilst they were not being used at the time there was no tape or ‘do not use’ signage, nor was there an occupancy rate stated. The HSE required these ambiguities to be rectified.

The DWP were criticised as being in breach of section 2(1) Health & Safety at Work etc. Act 1974, by failing to ensure, as far as reasonably practicable, the health and safety of its employees, and section 3(1) for failing to ensure so far as is reasonably practicable that people not in the DWP’s employment (such as agency workers) were not thereby exposed to risks to their health and safety. In response the DWP stated it had taken urgent action to rectify the issues that had been identified at Quarry House.

This highlights the need for all companies and workplaces, whatever their nature, to adhere to the published COVID-19 guidance for their sector.

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Fatality caused while using high pressure water jetting equipment at car manufacturing site leads to £2M fine

On 18 June 2017, Joseph McDonald, an employee of specialist industrial services company Leadec Limited, sustained fatal injuries when he was struck by the end of a flexi lance. Mr McDonald had been using high pressure water jetting equipment to clear paint residue from pipes in the paint shop at a car manufacturing site when the incident occurred.

The HSE found that whilst the company had recognised the risks of using high pressure water jetting equipment, they had failed to put in place appropriate control measures in order to mitigate those risks. Training and supervision were found to be inadequate and control measures such as the use of a pressure regulator or an anti-ejection device were either not in place or their use not enforced.

Leadec Limited pleaded guilty to breaching section 2(1) of the Health & Safety at Work etc. Act 1974 and was fined £2,000,000 and ordered to pay costs of £30,000.

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Three Construction firms receive fines totalling a quarter of a million after demolition fatality

Substantial fines were imposed on the firms after a worker suffered fatal injuries while demolishing a building in preparation for a development project on the Isle of Wight.

David Shayler, an employee of Ryde Demolition Limited, was working with a colleague and removing roof timbers by hand when a wall partially collapsed. This caused him to fall backwards and strike his head against a stack of tiles, sustaining injuries which six days later led to his death.

The HSE found that the work was inadequately planned and managed by all the duty holders involved. Further, the removal of roof timbers was out of sync, leaving the wall unstable. There were also inadequate measures in place to prevent falls from height, despite concerns being raised by workers in the days leading up to the incident on 13 October 2016.

Ryde Demolition Limited pleaded guilty to breaching section 2(1) of the Health and Safety at Work Act 1974 (duty to employees). It was fined £80,000 and ordered to pay costs of £12,132.02.

The two other companies involved in the project were also prosecuted. HJ Bennett Ltd pleaded guilty to breaching section 3(1) of the Health and Safety at Work Act 1974 (duty to non-employees) and was fined £120,000.00 and ordered to pay £12,057.62 in prosecution costs. Stoneham Construction Ltd, principal contractor on the project, pleaded guilty to breaching Regulation 13(1) of the Construction (Design & Management) Regulations 2015 and was fined £56,667 plus costs of £12,004.42.

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£200k fine for firm after forklift was driven over worker's foot

A maritime freight and logistics company, Simec Ports (UK) Limited, has been fined £200,000 after one of its workers sustained multiple fractures after a forklift truck was driven over his foot.

Newport Magistrates Court heard that the 15-tonne forklift was driven over the worker's foot during the process of unloading and stacking steel coils in a shed at the company's premises in Newport. The investigation by the HSE found that there was inadequate control of the risks associated with workplace transport, and that the company had failed to conduct a suitable and sufficient risk assessment. Simec Ports (UK) Ltd (formerly known as Cargo Services (UK) Ltd) was found guilty by the court of breaching section 2(1) of the Health and Safety at Work etc Act 1974. In addition to the fine, the company was ordered to pay costs of £8,732.04.

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Suspended sentence for illegal sale of weight loss drug DNP

A man has been given an 8-month prison sentence, suspended for 18 months, and 300 hours of unpaid work after pleading guilty to a number of offences, including illegally selling DNP for human consumption.

DNP (2,4 – Dinitrophenol) is a highly toxic chemical and poisonous to humans with serious side-effects such as extreme weight loss and death. It has been illegally

marketed as a weight-loss aid, and has been used by body builders wanting to lose weight. The chemical is said to have caused a significant amount of deaths in the UK.

Mantas Kaupas, a keen body builder, was prosecuted after a joint operation between the Food Standards Agency (FSA) and West Midlands Police, for offences including possession with intent to supply Class C drugs and selling unsafe food. He sold DNP for human consumption twice between January and February 2019.

Andrew Quinn, Deputy Head of the FSA's National Food Crime Unit, said:

"We welcome the successful outcome of this joint operation with West Midlands Police.

We take the sale of DNP for human consumption very seriously as there is a real risk of harm and even death to those who consume it. We will continue to pursue those who seek to make money from illegally and dangerously marketing it as a weight loss aid."

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HSE issues Crown Censure to MoD

The Ministry of Defence (MoD) received a Crown Censure by the HSE after a military diver died during a training exercise.

The incident took place on 26 March 2018, when Lance Corporal George Partridge and his dive buddy were tasked with attaching a distance line from the base of a shot line to the underwater wreck of a helicopter at a depth of 27m. Lance Corporal Partridge stopped responding to lifeline signals and was subsequently brought back to the surface. Despite attempted resuscitation, he was pronounced dead shortly after. After his cylinders were recovered, they were found to be empty.

The HSE served two Crown Improvement Notices relating to the failure to train all army divers how to undertake air endurance calculations and to assess the risk of a diver running out of air. The MoD accepted the Censure, and therefore admitted breaching its duty under section 2(1) of the Health and Safety at Work Act 1974.

A Crown Censure is the maximum sentence for a government body that the HSE is able to bring, as it cannot prosecute the MoD in the same way as a non-government body. There is no financial penalty attached to the Censure, but it will remain an official record of the MoD failing to meet the standards required of it by law.

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Blackpool frozen food firm receives penalties totalling £41,000 for selling unfit and out of date food

Eezi Freeze Wholesale Limited, a company which supplies schools, hotels and restaurants, was prosecuted after it was found to be selling food unfit for human consumption and out of date. Staff were found to have extended use-by dates on food so that it appeared the food had a longer life span.

The company pleaded guilty to 12 food hygiene offences under the Food Safety Act 1990. The Judge found that the systems followed by the company in relation to food safety were inadequate and haphazard. This was despite the company having previously received a caution after an infestation of pests and maggots was found in 2011. At that time, the Council inspectors found broken packaging, leaked food and a foul smell.

The company was ordered to pay £41,375 in fines and costs.

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Fatal crushing leads to £120k fine

Scapa UK Limited, a manufacturer of adhesive tape, was fined £120,000 after one of its workers was fatally injured whilst operating a rewind slitting machine.

The worker, Mr Brett Dolby, had been operating the machine which was designed to cut a large roll of adhesive material into narrow rolls, when he was drawn into an in-running nip between a rotating roller and the adhesive material, causing fatal crush injuries.

No one saw the incident and Mr Dolby was found trapped by his colleagues. The HSE found that he was required to work close to an unguarded in-running nip whilst the machine was operating. Whilst there had been a risk assessment of the machine, it had failed to identify and put in place adequate controls for all the hazards of using the machine, including the potential exposure to rotating parts. This meant that machine operators were provided with inadequate information and training for operating the machine, which placed them at severe risk of injury.

Scapa UK had previously received advice in relation to the guarding of machinery on site, from both the HSE and an external consultant in 2012. However, the company had failed to take action to ensure the necessary guarding of the machine was installed prior to the incident.

The company pleaded guilty to breaching section 2(1) of the Health and Safety at Work etc Act 1974 and was fined £120,000 with costs of £15,192.68. During the year to 31 March 2020, the company made a pre-tax loss of £3,002,000 on a turnover of £32,920,000. The company accounts had made provision of £300,000 for the fine.

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Bakery fined after worker's hand amputated in bagel machine

Mr Bagel's Limited pleaded guilty to breaching Regulation 11 of the Provision and Use of Work Equipment Regulations 1998 following an incident which occurred on 2 October 2017 when a worker's hand was amputated after being caught in a bagel production line.

The employee attempted to clear dough that had been jammed, and he was able to access the internal parts of the machine when doing so. As the dough was cleared, the machine restarted and dragged the employee's arm into the danger zone. His hand was amputated at the wrist.

A danger zone is classed as any area in or around a machine where a person might come into a risk of contact with a dangerous part of machinery. The investigation by the HSE found that the company did not have adequate measures to prevent access to the dangerous parts of the machinery. The HSE highlighted that the need to clear the machine was routine, and the company should have had adequate procedures in place to undertake this task safely.

The company was fined £4,500 and ordered to pay costs of £4,500. The HSE emphasised that blockages are routine events and the risks associated with them should be identified by employers.

The HSE reports that in the food and drinks industries, incidents involving machinery and plant cause:

- Over 30% of fatalities
- 10% of major injuries (which require hospitalisation)
- 7% of all injuries
- Around 500 reportable injuries to the HSE each year

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Independent consultant fined for providing 'incompetent' advice

Clive Weal, a self-employed independent health and safety consultant, has been fined after giving advice which was found to have exposed the employees of his clients, which ranged from small to medium sized companies, to risks to their health and safety. He was found to have given flawed advice in relation to hand arm vibration, workplace noise and controlling hazardous substances, which led to inadequate control measures being put in place.

Mr Weal had given incorrect advice in identifying risk from exposure to hand arm vibration as 'low', and consequently advising clients to wear 'anti vibration gloves' as a control measure. He had also failed to identify that paints containing isocyanates can cause asthma.

Mr Weal admitted to breaching section 3(2) of the Health and Safety at Work Act 1974, and was fined £1,400.

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Environmental

Plumpton College prosecuted by the Environment Agency after contaminating local stream with slurry

This prosecution followed an incident in November 2016 when the head herdsman at the College, Stuart Duncan, spread contaminated water with a high amount of cow slurry as fertiliser across a field at Wales Farm, which was owned by Plumpton College.

The amount of water was far in excess of what could be absorbed by the land and, in addition to that, the ground was frozen which exacerbated the problem. The water drained into and contaminated nearby Plumpton Mill Stream. The College did not report the incident or have an emergency plan in place to deal with the pollution.

The watercourse became visibly brown with foam on top, and around 1,500 fish, some of which were from protected species, were killed. The level of pollution was classed as category 1 by the Environment Agency, which is the most serious level.

Mr Duncan accepted a formal caution for his actions which contributed to the incident, and Plumpton College pleaded guilty to a breach of Regulation 12(1) of the Environmental Permitting (England and Wales) Regulations 2010 by causing or knowingly permitting a water discharge / groundwater activity without authorisation under an environmental permit. The College was fined £50,000 and ordered to pay costs of £44,852.66.

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Tech firm's failure to comply with recycling requirements help pay for mass tree planting at East London Site via an environmental sanction

EMC Computer Systems (UK) Ltd failed to register the packaging waste it produced in 2002 – 2003 and 2008 – 2015. Businesses with a turnover in excess of £2M handling more than 50 tonnes of packaging are required to register with an accredited compliance scheme and recover and recycle packaging waste.

The Environment Agency dealt with the offence via a civil sanction called an enforcement undertaking as an alternative to a prosecution. This option is open to offenders who improve their practices sufficiently to avoid similar breaches and can enable them to avoid a prosecution but at the same time make a financial contribution to a relevant project instead.

In this instance, EMC paid £8,759.31 to Trees for Cities to help fund the planting of several thousand trees at a site in Ilford.

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Round-up

HSE undertaking spot inspections in high-risk areas

As highlighted in the article above about the DWP office in Leeds, the HSE has been undertaking spot-checks to ensure businesses are operating in a suitably safe way. The HSE has confirmed that they are now focusing in areas that have been subject to COVID-19 rule tightening, including Oldham, Pendle and Greater Manchester.

It is working in conjunction with local public health authorities, and inspectors are finding common issues over a range of sectors. These include failing to provide arrangements for monitoring, supervising and maintaining social distancing, failing to introduce an adequate cleaning regime – particularly at busy times of the day – and providing access to welfare facilities to allow employees to frequently wash their hands with warm water and soap.

All businesses regardless of size or sector are within the scope for unannounced inspections. In order not to fall foul of such inspections, as well as keeping employees and others safe, it is critical for businesses to follow the HSE's guidance, as well as keeping up to date with the revisions to the categories and steps that are made.

A link to the HSE's current guidance can be found [here](#).

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Civil Aviation Authority publishes new guidance for crane users

The Civil Aviation Authority (CAA) has published an updated version of its guidance *CAP1096: Guidance to crane users on the crane notification process and obstacle lighting and marking*.

The guidance is relevant to all crane users where the height of the crane exceeds 10m above ground level, or above trees/surrounding areas if higher.

The notification, lighting and marking requirements have been increased significantly, and it is stressed that CAP1096 places the duty to notify the CAA of the siting of a crane on the crane user. This will generally be the client or a contractor on construction sites. Elsewhere, the duty will be on the organisation or employer who requires work to be completed.

The Construction Plant-hire Association (CPA) has prepared a draft Technical Information Note (TIN039D) to assist users. The CAA has stated that the new Guidance will come into force on 1 October 2020.

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Government introduces Draft Building Safety Bill

The Government has published the Draft Building Safety Bill, which sets out a stringent new safety regime for higher risk residential buildings (HRRBs) over 18m or six storeys high. As drafted, the Bill will amend the Building Act 1984. The new legislation would be backed by a new Building Safety Regulator, which will be branch of the HSE.

The bill will impose new responsibilities for construction teams of new builds and landlords of existing HRRBs. These include submitting adequate safety cases and responding to compliance notices. Failure to satisfy the new duties could result in criminal sanctions of up to two years in prison or an unlimited fine. The draft bill incorporates the recommendations of Dame Judith Hackitt's Review following the fire at Grenfell Tower.

The Building Safety Regulator will have three main functions:

1. to oversee the safety and standard of all buildings;
2. directly assure the safety of higher risk buildings; and
3. improve the competence of people responsible for managing and overseeing building work.

It will scrutinise the safety cases submitted by HRRB construction teams and will issue 'stop' notices if the information is not acceptable. It will also oversee all registered building inspectors and establish a new mandatory reporting system for structural and fire safety breaches.

The draft Bill is one of three initiatives to improve safety for tower blocks, with the second being a consultation into fire safety which sets out the proposals for putting in place the measures recommended in Phase 1 report of the Grenfell Tower Inquiry. The consultation commenced on 20 July 2020 and will run to 12 October 2020. A copy of the report can be found [here](#).

The third initiative is the Fire Safety Bill which is currently going through the House of Commons. If implemented, the Bill will amend the Regulatory Reform (Fire Safety) Order 2005 to make clear that the Responsible Person / duty holder for a multi occupied residential buildings is required to manage and reduce the risks of fire relating to the external walls and structure of the building and the entrance doors to individual flats and common parts.

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HSE statistics show 25% fall in workplace fatalities in 2019/2020

The HSE has published its figures for workplace fatalities in the year to 31 March 2020. The total number of deaths were 111, which was a 25% drop on the previous year's figure of 149 and also the lowest annual figure on record. Whilst it is possible there may have been an impact caused by the effects of Covid-19 for the months of February and March, the figures for the previous 10 months were also lower than average in comparison to previous years.

The sectors where the highest numbers of fatalities were reported were construction (40) and agriculture, forestry and fishing (20). Around one quarter of the fatalities were reported as being caused by falls from height (29) with the next most significant cause noted as being struck by a moving vehicle (20). Around 30% of fatal injuries across construction and agriculture were noted to have involved self-employed workers.

A copy of the full report can be found [here](#).

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