



# Health and safety bulletin

November 2022

## Fines and sentences

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### Construction bosses jailed after roofer falls to his death

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### Building owner jailed for 12 months after worker left paralysed of the lower half of the body

An employee of Mr Nicholas Devine, the owner of a commercial premise being fitted out as a recording studio in Seaforth, Liverpool, suffered severe spinal and head injuries after a hoist that he was standing on used to lift goods plummeted to the ground. [more>](#)

### Training fatality results in £850,000 fine for Hermes

An employee of Hermes Parcelnet was crushed to death at the company's Euro Central depot in North Lanarkshire. [more>](#)

### Scrap metal firm fined £2m over death of worker

In July 2017, forklift driver Stuart Towns walked into an area underneath a hopper at an aluminium recycling plant in Oldbury. [more>](#)

### Sainsbury's fined £1m after customer suffers 'horrific injuries'

A Sainsbury's customer was badly injured as she rode her mobility scooter at speed into twine that had been drawn between two pillars at a Sainsbury's car park in Newbury on 21 June 2020. [more>](#)

### Engineering firm sentenced after fatal incident

Graham Engineering Ltd was ordered to pay a fine of £500,000 plus costs after Colin Willoughby, a long-standing member of staff, died while at work. [more>](#)

#### ANY COMMENTS OR QUERIES?

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### **£1.5m fine after electrician died following fall from crane platform**

Keith Poppleton, an electrician working for Cleveland Bridge UK Limited, was repairing some wiring on an overhead gantry crane when the access panel below his feet gave way causing him to fall to the ground more than 25ft below. [more>](#)

### **Maximum fine for producers who demonstrated 'plain indifference to employee safety'**

As reported in the International press, on 22 October 2021, cinematographer Halyna Hutchins was fatally injured by a prop gun accidentally fired by Alec Baldwin on the set of the film 'Rust', near Santa Fe, in New Mexico. [more>](#)

### **HSE issues the MoD with Crown Censure following the shooting of an employee**

In January 2019, an employee of the MoD suffered gunshot wounds after being shot with live ammunition during a training exercise when blank ammunition should have been used. [more>](#)

### **Livestock auction mart fined after fatal incident involving a dairy bull**

An employee of Gisburn Auctions Marts Ltd, John Leverton, was fatally injured when he was struck by a dairy bull which he was attempting to load onto a lorry. [more>](#)

### **Bedford landlord fined for non-compliance of fire regulations at town centre office block**

The owner and 'responsible person' of Broadway House, in Bedford, were given a 'Notice of Deficiencies' in June 2019 after an audit by the Bedford Fire and Rescue Service (BFRS). [more>](#)

### **School prosecuted after pupils are stranded in the Lake District**

A school in Gateshead was fined £30,000 for pressing ahead with an unsafe trip to the Lake District, despite unsafe icy conditions. [more>](#)

### **Topshop and Arcadia Group fined £1m following fatality caused by falling queue barrier in Topshop**

Ten-year-old Kaden Reddick suffered a fatal blow to his head during a family shopping trip in 2017, after a queue barrier accidentally toppled onto him at a Reading branch of the chain. [more>](#)

## **Environmental**

### **Yorkshire Water fined in excess of £1.6M for sewage pollution**

The water undertaker has been fined a total of £1,600,750 (plus a victim surcharge of £170 and £22,112.79 in costs) for polluting Bradford Beck, in West Yorkshire. [more>](#)

### **Largest environmental fine in Southwest imposed on Dairy Crest**

The company, which produces well-known brands such as Cathedral City Cheese, has been found to be unable to adequately manage its liquid waste, odour and environmental reporting. [more>](#)

## **8-month prison sentence for man who ignored repeated warnings from Environment Agency**

Trevor Sieley, 63, was sentenced to prison after ignoring repeated warnings not to store and burn waste. During the trial, the Court heard that Mr Sieley had been breaching environmental laws since 2008, culminating in two sets of environmental convictions. [more>](#)

## **Round-up**

### **Ear loop masks do not qualify as tight fitting respiratory protective equipment (RPE)**

The HSE has revealed that respirators/masks that rely on ear loops, including those provided with tightening clips, do not adequately protect the user when used as tight-fitting RPE. [more>](#)

### **HSE announce 10-year strategy – Protecting people and places**

The HSE have published a strategy plan, which sets out the HSE's plan to tackle new and traditional risks over the next 10 years. [more>](#)

### **HSE workplace fatality figures published**

The HSE have published their annual data, showing that 123 workers were tragically killed in work-related accidents between April 2021 to March 2022, alongside a further 80 deaths from members of the public resulting from work-related accidents. [more>](#)

# Fines and sentences

## Senior managers at food waste recycling company jailed

Nathan Walker (19) and Gavin Rawson (35) worked at Greenfeeds Ltd in Bottesford, Leicestershire, a company specialising in producing biofuel and semi-liquid pig feed from recycled products which were then delivered via road haulage tankers.

On 22 December 2016, Mr Walker climbed into a tanker to empty the semi-liquid pig feed out of it but got into difficulties. Mr Rawson climbed in to rescue his colleague but tragically also got into difficulties. The tanker was cut open with a saw and the emergency services retrieved and attempted to resuscitate them, but they unfortunately drowned. A forensic pathologist determined that it was most likely that the men had been overcome by either toxic product in the animal feed and/or a lack of oxygen, which had caused them to lose consciousness due to the level of CO<sub>2</sub> and unventilated confined space and fall into the animal feed.

The Leicestershire Police and the HSE found that the company had no adequate measures in place for the cleaning of the tankers; the company had no specialist equipment for their employees, even though the tankers needed cleaning every two or three weeks. The cleaning method, which consisted of an employee entering the tanker with a power washer while another acted as a spotter and held the hose pipe connected to the power wash, was found to have no proper risk assessment in place. There was no set out method of entering or exiting the tanker, no training, provision for breathing apparatus whilst inside or any protective equipment. There was also no named health and safety officer at the company. Investigations revealed that staff had previously complained about the cleaning method being dangerous, but that those concerns were dismissed.

Greenfeeds Ltd, now in liquidation, was fined £2m after being found guilty of two counts of Corporate Manslaughter. Ian and Gillian Leivers, who owned and ran the company, were both disqualified from being company directors for periods of 10 and 15 years respectively. Gillian Leivers, whom the Judge said had shown a *“blatant disregard for a high risk of death”* has been jailed for 13 years, whilst Ian Leivers was sentenced to 20 months imprisonment. The company’s transport manager, Stewart Brown, was sentenced to one year imprisonment (suspended for two years). They were all also found guilty of various offences under the Health and Safety at Work etc. Act 1974 (the *“HSWA”*) on the basis that the offence by the company was committed with their *“consent, connivance or attributable to [their] neglect”* (s.37(1) HSWA).

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## Construction bosses jailed after roofer falls to his death

Total Contractors Ltd, the principal contractor of the conversion of the Landsdowne Place Hotel in Hove to flats, had subcontracted some works to Southern Asphalt Ltd, who in turn subcontracted roofing repair works to Mr Graham Tester. On 27 July 2018, Mr Tester, who was 60 years old, lost his balance whilst carrying a 40kg roll of felt on his shoulder up a ladder, and fell down two storeys to his death. It was found that the ladder had not been secured properly, relying only on two nails hammered on either side into a timber frame for stability.

The director of Total Contractors Ltd, Steven Wenham, was found guilty of gross negligence manslaughter and sentenced to 5 years in prison. John Spiller, the owner of Southern Asphalt Ltd was sentenced to 15 months imprisonment for failing to properly safeguard against serious injury or death from a fall from height. Both companies were

ordered to pay fines and costs totalling £380,000 for HSWA offences, including a failure to ensure its employees safety.

Investigations carried out by Sussex Police and the HSE revealed that there were multiple failures to properly plan and execute the roof repairs, including there being no suitable risk assessments or method statements were in place. There was no scaffolding to enable safe access to the roof, or any measures to prevent or mitigate the effects of a fall by way of barriers. There was also no adequate equipment to enable workers to transport materials to the roof. The investigation also found that on the very same day the incident occurred, Mr Wenham had pressured Mr Spiller to carry out work knowing that there was no scaffolding or edge protection. Mr Tester had in turn been instructed by Mr Spiller to start work on the roof, with full knowledge that there were no adequate safety measures in place.

The companies only pleaded guilty to 1 of 8 total offences they were charged with by the Crown Prosecution Service (CPS). On 7 April, they were convicted of 6 out of the 7 contested charges. The sentencing Judge commented that works could easily have been delayed so that adequate safeguards could be put in place and the failure to do so was the cause of Mr Tester's death.

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## **Building owner jailed for 12 months after worker left paralysed of the lower half of the body**

An employee of Mr Nicholas Devine, the owner of a commercial premise being fitted out as a recording studio in Seaforth, Liverpool, suffered severe spinal and head injuries after a hoist that he was standing on used to lift goods plummeted to the ground.

The refitting work involved repairing the timber frame around the lift shaft and rehangng doors, therefore requiring the employee to work on the platform of the goods lift. The HSE found that the hoist had not been adequately inspected or maintained and was not suitable to support the weight of a person when in the raised position. Unless significantly modified, it was not fit for the purpose for which it was being used.

Mr Devine pleaded guilty to a s.2(1) HSWA, which resulted in him being sentenced to 12 months' imprisonment and being ordered to pay costs of £10,000. A further investigation by the HSE revealed that there had been a similar incident in 2016 which resulted in a tenant of the premises suffering a broken heel bone. Mr Devine had not ensured that there was an examination of the hoist before use, nor conducted any assessment into any risks arising from the work, so that appropriate safety measures could be in place.

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## **Training fatality results in £850,000 fine for Hermes**

An employee of Hermes Parcelnet was crushed to death at the company's Euro Central depot in North Lanarkshire. David Kennedy, 43, was fatally injured while undergoing training on the operation of a trailer mover on 19 March 2019. At approximately 10.15pm, Mr Kennedy was using the mover to reposition a laden articulated trailer when he was struck in the chest by the tiller head of the mover and pinned against a stationary trailer within the depot yard. He was taken to the hospital immediately but died from his injuries.

An HSE investigation found that Hermes had failed to ensure that their in-house trainer had been given enough instruction on how training should be delivered. The

investigation also revealed that the trainer had not positioned himself to be able to see and correct any mistakes during the training. In fact, no one on-site monitored whether the appropriate training was taking place. Although the training plan stated that towing a trailer should not occur until the second hour of training, Mr Kennedy had started his practical training 30 minutes before the incident and had already been involved in moving a laden trailer with the mover.

The company pleaded guilty to a breach of s.2(1) HSWA and was fined the equivalent of 0.6% of its pre-tax profit immediately preceding the incident date. Had the company not pleaded guilty, it would have been fined £1.2m. Soon after the incident, the company removed all trailer movers from service across its UK sites.

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### **Scrap metal firm fined £2m over death of worker**

In July 2017, forklift driver Stuart Towns walked into an area underneath a hopper at an aluminium recycling plant in Oldbury. The area housed powerful engines used to feed a conveyor belt with scrap metal for processing and it is suspected that Mr Towns was killed by the machinery, having suffered catastrophic head injuries. A few days before the tragic accident, the managing director of the firm, Alutrade Ltd, had spotted and warned Mr Towns not to work so close to the hopper, but had failed to cordon off the area after the gate which prevent workers from getting into that location had been broken. Workers were therefore able to gain access to the immediate vicinity of the machinery, known amongst them as the 'Biffa Line'.

A major investigation by the police and the HSE saw an entire month's worth of CCTV analysed, with findings of major safety oversights. They included:

- Workers jumping up and down on metal in a hopper to clear blockages;
- A forklift truck driven by the managing director being used to lift Mr Towns 18ft into the air to clear a blockage, with no safety rigging;
- Staff walking on the conveyor belt to clear blockages.

It was acknowledged by the judge that before this tragic accident the company had clearly defined health and safety policies and procedures in place which profiled risks. It had had a good health and safety record, but sadly as far as the 'Biffa Line' was concerned, the company had not adhered to its policies and procedures in practice.

Alutrade Ltd admitted Corporate Manslaughter in February and was sentenced on 25 March. Two directors and the health and safety Manager were initially charged with gross negligence manslaughter, but instead pleaded guilty to breaches of the HSWA. Alutrade Ltd was fined £2m plus costs, with fines ranging from £2,000 – £15,0000 also imposed on the individuals.

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### **Sainsbury's fined £1m after customer suffers 'horrific injuries'**

A Sainsbury's customer was badly injured as she rode her mobility scooter at speed into twine that had been drawn between two pillars at a Sainsbury's car park in Newbury on 21 June 2020.

In response to the pandemic, Sainsbury's had implemented a queuing system at the site to enable customers to queue safely and in a socially distanced manner at the front of the store. This comprised of a mixture of metal and plastic temporary barriers which had been spaced apart with light weight red and white plastic security tape. However, the barriers were being blown over by wind and vandalised so the store manager opted to

substitute the tape with baler twine, drawn taut between pillars. The prosecution likened the twine to a 'booby trap', stating that the risks associated with replacing the plastic tape with twine had not been assessed and suggesting that the customer could have been decapitated.

The customer's mouth was split open, fracturing her teeth, jaw and palate, resulting in metal plates being inserted in her jaw. By the time of the hearing, Sainsbury's had paid £31,000 towards her medical bills and treatment costs. Sainsbury's was fined £1m on 2 March 2022 after pleading guilty to one health and safety offence and was ordered to pay a victim surcharge of £190 and costs of £18,263.62.

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### **Engineering firm sentenced after fatal incident**

Graham Engineering Ltd was ordered to pay a fine of £500,000 plus costs after Colin Willoughby, a long-standing member of staff, died while at work. Graham Engineering Ltd, based in Lancashire, is a precision manufacturer of containers and drums for the nuclear, aerospace and medical industries which was founded in 1970 and now employs more than 180 people. On 21 May 2018, Mr Willoughby was removing a weld by lying on his back underneath a raised Hugh Smith 1000-tonne capacity press when a piston came loose and the internal ram fell on him. Police, firefighters, and paramedics were all called. However, despite their best efforts, he was pronounced dead at the scene.

The company was found guilty of breaching s.2(1) HSWA following an investigation which revealed that it had failed to carry out a risk assessment to ensure a safe system of work on the capacity press: the middle section of the machinery had been raised by forklifts to allow access to the underside of the press, however, the safe working load had been exceeded.

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### **£1.5m fine after electrician died following fall from crane platform**

Keith Poppleton, an electrician working for Cleveland Bridge UK Limited, was repairing some wiring on an overhead gantry crane when the access panel below his feet gave way causing him to fall to the ground more than 25ft below. He had been summoned to the site at Yarm Road following a short circuit in the lifting equipment of the crane on 25 October 2016.

The company was found to have failed to maintain the walkway's access panels and that the panel itself had not been adequately checked after some repairs had been carried out some months earlier. The gantry crane had been installed in 1983 and its design plans showed the walkway panels needed to be held in place by four clips secured with bolts, however, there was only one clip in place at the time Mr Poppleton fell through. He sustained fatal injuries and was pronounced dead at hospital.

The company was fined £1.5m plus costs of £29,239 and found guilty of breaching s.2(1) and s.3(1) HSWA. 5(1) of the Provision and Use of Work Equipment Regulations 1998 and r. 8(b)(i) of the Work at Height Regulations 2005. The HSE commented that *"this was an incident which could easily have been prevented had the company considered the risks associated with such access panels not being secured in place following maintenance work and general wear and tear."* The company's health and safety record was poor, having previously been fined £8,000 when a worker fell 5ft from poorly guarded scaffolding in 2003.

Cleveland Bridge UK Limited entered into administration in July 2021 and as such it is unlikely to be able to pay the fine.

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## Maximum fine for producers who demonstrated ‘plain indifference to employee safety’

As reported in the International press, on 22 October 2021, cinematographer Halyna Hutchins was fatally injured by a prop gun accidentally fired by Alec Baldwin on the set of the film ‘Rust’, near Santa Fe, in New Mexico. She had been working as the director of photography alongside film director Joel Souza when a ‘Colt .45’ revolver replica fired after Mr Baldwin had cocked it during rehearsals. Despite Ms Hutchins being immediately flown to hospital by helicopter, she died of her injuries. A second person on set, Mr Souza was also injured.

Mr Baldwin had been handed the gun by the filming assistant director Dave Halls. It was later reported that they both held the honest belief that the weapon contained dummy rounds and that Mr Halls even told Mr Baldwin it was a “cold gun” before handing it to him. Mr Baldwin asserted that he never pulled the trigger and that he did not even know how a live bullet came to be on the set. Real firearms are often used in filming and loaded with blanks that create a ‘flash’ and a ‘bang’ but do not discharge a projectile.

Producers received the maximum fine of \$136,793 (equivalent to c.£105,000) after being condemned for failing to follow safety guidelines. The New Mexico Environment Department commented that filmmakers showed “*plain indifference to recognised hazards associated with use of firearms on set*” and criticised management for knowingly turning a blind eye to safety procedures not being followed. A civil claim made by the family of Halyna Hutchins has also been settled on a confidential basis. However, a spokesperson for the Office of the First Judicial District Attorney for New Mexico confirmed that the settlement has no impact on the ongoing criminal investigation and the ultimate decision as to whether criminal charges will be filed.

Such incidents on film sets are extremely rare, but not unheard of. The Associated Press reported that more than 150 people have suffered life-altering injuries on US film-sets since 1990 including Brandon Lee, son of Bruce Lee, who was accidentally shot by a prop gun whilst filming a death scene for the film ‘The Crow’ in 1993.

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## HSE issues the MoD with Crown Censure following the shooting of an employee

In January 2019, an employee of the MoD suffered gunshot wounds after being shot with live ammunition during a training exercise when blank ammunition should have been used. Notwithstanding the seriousness of this health and safety failing, injuries arising out of complications with blank ammunition, prop guns and live rounds aren’t unheard of as noted in the above mentioned incident involving Alec Baldwin. Fortunately, the MoD employee in question did not suffer fatal injuries. However, their injuries were severe enough to hinder everyday tasks such as cooking and driving, and they also developed Post Traumatic Stress Disorder following the incident.

The MoD admitted breaching its duty under Section 2 (1) and Section 3 (1) HSWA. As a result of this admission, the MoD was issued with a Crown Censure – the name given to the formal recording of a decision by the HSE that, but for the immunity of the Crown, would have likely resulted in a conviction in the courts. The issuing of a Crown Censure is rare, with only 42 being issued from 1 April 1999 to 14 December 2022. They are typically issued in situations whereby, an institution with Crown immunity fails to comply with health and safety laws and there is significant evidence of their failings. Therefore, its application in this case was appropriate given the strong evidence of failings by the MoD.



Following the hearing, HSE inspector Stacey Gamwell stated that “we recognise that military training can be hazardous – but where work of this nature is to be done, that danger should be controlled as much as reasonably practicable”. It’s unclear how live ammunition found its way onto the exercise, but the MoD has accepted its responsibility and it is hoped this case can improve safety on MoD exercises.

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### **Livestock auction mart fined after fatal incident involving a dairy bull**

An employee of Gisburn Auctions Marts Ltd, John Leverton, was fatally injured when he was struck by a dairy bull which he was attempting to load onto a lorry. Mr Leverton, an employee of over 20 years, was helping another colleague to load four cows and the bull onto a lorry at his employer’s site in Lancashire when the bull turned and struck him, causing fatal injuries.

The HSE’s investigation found that the employer company had no suitable refuges or barriers within the loading area for employees to shelter behind in the event that cattle became difficult to handle. The HSE commented that this incident could easily have been avoided had Mr Leverton been able to seek protection from a barrier when the bull began to charge. The HSE fined the livestock auction company £18,000 (with costs of £8,819) after the company pleaded guilty to breaching s.2(1) HSWA.

The HSE annual report for fatal injuries in agriculture, forestry and fishing in Great Britain (1 April 2021-31 March 2022) records that of the 25 people killed in agriculture, 2 involved animals. The 5-year average (2017/18-2021/22) was 6.

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### **Bedford landlord fined for non-compliance of fire regulations at town centre office block**

The owner and ‘responsible person’ of Broadway House, in Bedford, were given a ‘Notice of Deficiencies’ in June 2019 after an audit by the Bedford Fire and Rescue Service (BFRS). They were then given two months to rectify the numerous issues identified. Follow-up inspections in October 2019 and February 2020 revealed that despite assurances, neither Mrs Lusty, the owner, nor Mr Lusty, the responsible person, had taken any remedial action. As such, an enforcement notice was served on Mrs Lusty allowing a further 3 months to address the issues. The enforcement notice stated that:

- The Fire Risk Assessment had not been reviewed since December 2015;
- The external fire escape was in a poor state of repair with steps missing;
- Numerous fire-resisting doors within the office building were in a poor state of repair;
- The fire alarm system was inadequate for the risk;
- There were inadequate fire exit signs and fire action notices;
- There was no evidence that the firefighting equipment, fire alarm, and emergency lighting systems had been properly maintained.

Some new firefighting equipment had been provided, but Mr and Mrs Lusty failed to rectify all other issues identified in the enforcement notice issued by BFRS. On 21 January 2022, Mr Lusty pleaded guilty to:

- A failure to review the fire risk assessment since December 2015 therefore not assessing the risks to which relevant persons would be exposed to;
- An inadequate fire warning system at the premises meaning that persons in the building would not receive a timely warning should a fire occur;
- The fire escape being in a state of disrepair with stairs missing;
- A number of fire doors being in a state of disrepair, potentially allowing the passage of smoke and flames should a fire occur.

Sentencing took place on 18 March 2022 and a fine of £10,000 per offence was imposed (totalling £40,000), together with a costs order of £10,525. Speaking about the case, the BFRS Chief Fire Officer commented that: *“This prosecution sends out a clear message to landlords that if you do not comply with the required fire safety regulations then we are prepared to take enforcement action to keep people safe”*. There was a clear history of non-compliance going back to 2015.

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### **School prosecuted after pupils are stranded in the Lake District**

A school in Gateshead was fined £30,000 for pressing ahead with an unsafe trip to the Lake District, despite unsafe icy conditions. The Gateshead Cheder had organised a trip for 13 year 10 pupils to Helvellyn, a mountain located in the heart of the Lake District in March 2020 led by one teacher and a teaching assistant. Whilst the school had reviewed weather reports but failed to equip the pupils with adequate equipment, resulting in the group becoming stranded and having to be rescued by Keswick Mountain Rescue Team (KMRT).

The HSE’s investigation revealed that despite the conditions, many of the children were wearing school uniform and inadequate footwear rather than full winter clothing and mountain boots. They were not carrying any climbing equipment such as ice axes or crampons, and the staff leading the trip were relying on a smartphone application to guide them, having no formal qualifications in mountain leadership or any experience of climbing during icy and snowy conditions. At the time of the ascent, it was found that at least two members of the public warned the group to turn back, however, the group simply continued on to attempt to reach the Helvellyn summit.

The descent proved to be problematic when they veered off-course, wandering down steep terrains resulting in at least one pupil slipping on the ice and sustaining minor cuts. This caused another pupil to panic and leave the group in a bid to make it down the mountain. The two leaders remained with the injured pupil and were eventually found and rescued by KMRT, whilst the pupil who had become separated from the group was eventually found by other members of the public.

The school pleaded guilty to breaches of s.2(1) and s.3(1) HSWA after it was found that the adults lacked the necessary qualifications to lead an expedition of this kind. Gateshead Cheder had also not taken any advice on how to properly plan the trip and were fined £30,000 and ordered to pay a victim surcharge of £181 and costs of £4,574.90. HSE inspector Stephen Garner commented that benefits of outdoor learning activities were recognised, but there was a clear failure by the school to carry out a proper assessment of the risks and to adopt sensible precautions to ensure the pupils safety and that such activities needed to be left to an expert, such as a licensed adventure activity provider.

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### **Topshop and Arcadia Group fined £1m following fatality caused by falling queue barrier in Topshop**

Ten-year-old Kaden Reddick suffered a fatal blow to his head during a family shopping trip in 2017, after a queue barrier accidentally toppled onto him at a Reading branch of the chain. He had been swinging on the structure moments earlier causing the 110kg barrier to topple and fall on his head. He was rushed to hospital but tragically died of his injuries.

The MDF (medium density fibreboard) barriers were doubled as display units, designed to entice those in the queue into last minute purchases as they waited to pay for their items. The barriers were originally intended to be made of metal and bolted to the floor, however, after the original supplier went into liquidation, MDF barriers were substituted instead.

During the course of the earlier Inquest, it was found that the incident was not the only of its kind for Topshop – the same type of barrier fell on a girl in a Topshop store in Glasgow in February 2017. CCTV evidence showed that the barrier would wobble as people leaned on it; it was only secured by way of 4 screws to the concrete floor and had not been properly tested for movement in any way notwithstanding that earlier the Glasgow incident had resulted in a requirement for managers across all sites being specifically asked to check that queue barriers did not wobble.

It was found that the manufacturer of the barriers, Realm Projects, had not provided any guidance on installation, leaving it to individual stores to decide how to fit the barriers. The decision to use four small screws was completely inadequate bearing in mind the size and weight of the barrier, causing it to be unstable.

Following a two-month trial, Topshop and its owner, the Arcadia Group, were convicted of failing to discharge a health and safety duty in March, as were Stoneforce Ltd, the contractor who fitted the barriers. Realm Projects, had previously pleaded guilty to a health and safety offence. Although both now in liquidation, Arcadia Group was recently fined £650,000 and Topshop £350,000, plus each ordered to pay £530,000 in costs. Stoneforce Ltd, which is also no longer trading was fined a nominal fee of £1,000.

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# Environmental

## Yorkshire Water fined in excess of £1.6m for sewage pollution

The water undertaker has been fined a total of £1,600,750 (plus a victim surcharge of £170 and £22,112.79 in costs) for polluting Bradford Beck, in West Yorkshire. The company pleaded guilty to unauthorised sewage discharges during 2018 which had breached its environmental permit.

The company had designed a tank to collect and store a mix of rainfall and sewage during times of heavy rainfall. Storm pumps within the tank would then return the mixture to the sewers once the period of heavy rainfall had passed and water had returned to its normal levels. However, if full, the overflow would spill into the watercourse. An investigation by the Environment Agency revealed that in the period between August 2017 and September 2018, either one or more of the pumps were not working on various occasions. The tank was full between January and August 2018, and it is estimated that the tank spilled 25 times.

Yorkshire Water was aware that the pumps were not working, that the tank was full and had no means of pumping the sewage back to the sewers but failed to take any remedial action. The result was several discharges into the river, with local residents reporting an immediate impact on wildlife. Further, the water quality looked different downstream of the tank. Over two days in August 2018, the Environment Agency received four reports of sewage pollution.

Yorkshire Water recognised its failures, showed remorse, and assured the Court that steps were being taken to address the issues. Handing down the fine, the judge at Leeds Magistrates Court was highly critical of the company, saying it didn't treat the problem with "*the gravity it deserved*" and was "*reckless*" in the fact that it took almost two years to fix the problem.

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## Largest environmental fine in Southwest imposed on Dairy Crest

The company, which produces well-known brands such as Cathedral City Cheese, has been found to be unable to adequately manage its liquid waste, odour and environmental reporting. A Court found that the company's performance regarding environmental matters over a 5-year period had been unacceptable. Amongst a list of issues, it had significantly polluted a tributary of the Tamar River, causing significant harm to fish and other aquatic life, and released foul odours affecting local residents.

Dairy Crest pleaded guilty to 21 of 27 charges brought by the Environment Agency. The offences included:

- The release of a harmful biocide into a river and killing thousands of fish over a 2km stretch on 16 August 2016;
- Coating another river with a noxious, black sludge for 5 kilometres in 2018;
- Consistently exceeding limits on substances like phosphorous and suspended solids entering the river Inny, between 2016 and 2021;
- Foul odours repeatedly affecting residents over many years;
- Failing to report errors to the Environment Agency within 24 hours of them occurring.

The company was fined £1.52million and ordered to pay costs of £272,747, which is reported to be the largest fine ever awarded following an Environment Agency conviction in the Southwest.

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## 8-month prison sentence for man who ignored repeated warnings from Environment Agency

Trevor Sieley, 63, was sentenced to prison after ignoring repeated warnings not to store and burn waste. During the trial, the Court heard that Mr Sieley had been breaching environmental laws since 2008, culminating in two sets of environmental convictions. He had also received a suspended sentence for permitting the cultivation of cannabis at the site in question. Notwithstanding these convictions, further the offences were committed between 29 July 2019 to 17 December 2019.

Environment Agency officers attended the site on multiple occasions, observing the charred remains of rubbish. The rubbish recorded by the officers is said to have included plastics, metals, and even a vehicle engine. The officers found that the site had a specially constructed pit as well as an excavator, both of which suggested that a large amount of waste had been stored and burned there. The Environment Agency served a notice in September 2019, ordering the landowner to clear the site. Unfortunately, during subsequent visits it became apparent that the site had not been cleared and a warrant for Environment Agency officers to enter the site was issued in December 2019.

In handing down the sentence at Norwich Crown Court, Judge Shaw noted that the two-year Covid lockdown had provided Mr Sieley with ample opportunity to clear the site but instead he accepted more waste. The landowner also continuously hindered the Environment Agency's efforts to discuss the matter with him. These factors, along with his actions earned him an 8-month prison sentence and an order to remove all waste from the site by 30 June 2023.

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# Round-up

## Ear loop masks do not qualify as tight fitting respiratory protective equipment (RPE)

The HSE has revealed that respirators/masks that rely on ear loops, including those provided with tightening clips, do not adequately protect the user when used as tight-fitting RPE.

The face masks/respirators rely on having a good seal with the wearer's face; however, this cannot be achieved when relying on ear loops to hold the mask in place. This includes masks/respirators labelled 'FFP2' (filtering facepiece).

As a result, the HSE does not recommend using these kinds of masks/respirators which rely on ear loops, including those with CE (EU directive compliant) or UKCA (UK Conformity Assessed) marks, as they do not provide the adequate protection. In June 2020, the NHS took early action to substitute ear loop masks/respirators with masks fitted with a head harness.

The HSE has warned that FFP2 masks/respirators are not to be confused with surgical masks or other face coverings which are not required to be tight-fitting.

All tight-fitting RPE should pass a 'face-fit test', ie, tested by a competent assessor as providing the adequate protection. Duty holders are advised to revisit their Control of Substances Hazardous to Health Regulations 2002 risk assessment to ensure that their RPE is adequate and fit for the activity to be carried out. Guidance on RPE fit testing can be found on the [HSE website](#).

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## HSE announce 10-year strategy – Protecting people and places

The HSE have published a strategy plan, which sets out the HSE's plan to tackle new and traditional risks over the next 10 years. The document highlights the changing landscape of regulation with the increase in the HSE's responsibilities certain industries, including the building safety sector and chemicals regulation. The strategy highlights key themes in the strategy including a focus on people ensuring the HSE stays relevant and operates in a fair and just way. The strategic objectives identified include the intention to reduce work related ill health with a focus on mental health and stress and to maintain Great Britain's record as one of the safest countries to work in.

A copy of the strategy can be accessed from here: <https://www.hse.gov.uk/aboutus/the-hse-strategy.htm>

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## HSE workplace fatality figures published

The HSE have published their annual data, showing that 123 workers were tragically killed in work-related accidents between April 2021 to March 2022, alongside a further 80 deaths from members of the public resulting from work-related accidents.

The industries with the highest work-related deaths were construction (30), agriculture, forestry and fishing (22) and manufacturing (22), with the most common type of injury being falling from heights (29). The total number of deaths for the 21/22 period is reportedly lower than the previous year.

Since the HSWA and the creation of the HSE the year after, Great Britain has become one of the safest places to work in the world. However, the HSE's Chief Executive, Sarah Albon has commented that *"every loss of life is a tragedy, and we are committed to making workplaces safer and holding employers to account for their actions, as part of our mission to protect people and places"*.

The HSE has also published the annual figures for mesothelioma, showing that 2,544 people died from this disease in 2020, which is in line with the average yearly figure for the past 8 years, ie, 2523. The HSE has commented that we should expect the annual deaths figure to decrease to reflect the decline in asbestos exposure since the 1980s.

A link to the HSE's website summarising the statistics is here:

<https://www.hse.gov.uk/statistics/>

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