



# Health and safety law update

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September 2016

## Case law Fines and sentences

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### Network Rail fined £4m for death of former actress Olive MacFarland killed at a level crossing

On 24 August 2011, 82-year old former film and TV actress, Olive MacFarland, was struck down by a train travelling at nearly 100mph, as she attempted to pass a level crossing at Gypsy Lane near Needham Market, Suffolk. [more>](#)

### Homeware company fined £2.2m for death of an employee who fell from height during unloading process

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### Tata Steel fined £1.98m following serious injuries to the hands of two workers in two separate incidents involving machinery

Northampton Crown Court heard how a 26-year-old employee lost the middle and ring fingers on his left hand while trying to clear a blockage on machinery at the company's site in Corby, Northamptonshire, in September 2014. In a separate incident in February 2015, a 52-year-old lost part of his little finger when his hand was caught in a lathe at the same site. [more>](#)

### G4S fined £1.8m for failure to protect against the risk of Legionnaires' disease from its water systems at its site in Harlow, Essex

In October 2013, Harlow Council investigated the source of a G4S worker contracting Legionnaires' disease. Although Harlow Council could not prove that the illness was contracted from the site it found various failings in maintaining water systems at the workplace. [more>](#)

### Fines on the increase in the Magistrates' Courts

On 2 March 2015, section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into force. This effectively enabled Magistrates to impose unlimited fines where previously their health and safety sentencing powers were limited to £20,000 per offence. [more>](#)

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### **Italian manufacturer fined after worker loses all fingers and thumb in machinery**

An assistant farm manager from Norwich lost all his fingers and thumb of his left hand when it became caught in machinery. [more>](#)

### **Suspended prison sentence following death of an agency worker killed in machine**

On 27 April 2012, Zydre Groblyte, 23, suffered a fatal head injury at RGE Engineering in Godmanchester, Cambridgeshire, when a machine started while she was inside it. An investigation by the HSE found that there was no effective system of guarding on the machine and that the accident could have been prevented. [more>](#)

### **Company director jailed for 12 months following the death of one of his workers**

On 29 January 2014, father-of-three Paul Williamson, 51 years of age, died when a remote controlled Mobile Elevated Working Platform (MEWP) he was loading onto a truck fell from the ramps and crushed him. [more>](#)

## **Corporate manslaughter**

### **Building company fined £550,000 for corporate manslaughter of two men who fell from height at a construction site**

In the first corporate manslaughter sentencing under the sentencing guidelines in force from February 2016, Monavon Construction Ltd pleaded guilty to two counts of corporate manslaughter and a breach of the duty to non-employees under section 3(1) HSWA 1974. [more>](#)

## **In the news**

### **Site manager jailed following fatal fall**

On 24 January 2015, Mr Tasadaq Ur-Rehman, a father of two, was working on a building site in Leicester, when he fell through a skylight suffering fatal head injuries. [more>](#)

### **Merseyside landlord jailed for manslaughter of former serviceman**

Steven Weedon, 33, an unemployed ex-serviceman, rented his home from Anthony Minehan, along with two other unemployed ex-servicemen. They had been put in touch with Mr Minehan via a charity called "Soldiers off the Streets" offering help to homeless, ex-service personnel. [more>](#)

### **Employers of lone worker who died from carbon monoxide poisoning face fines**

During the early hours of 6 December 2014, Mr Javaid Iqbal, a 29-year-old father of three, was employed by KK Security Services Ltd (KK Security) as a security guard on a construction site in Leigh, Wigan. KK Security was sub contracted by Veritas Security (Southern) Ltd (Veritas). [more>](#)

## **Round up**

### **New Minister of State for Disabled People, Health and Work**

Penny Mordaunt MP has been appointed as Minister of State for Disabled People, Health and Work with responsibility for oversight of HSE. [more>](#)

### **The HSE's annual report on work-related fatal injuries shows a plateau of fatalities after a long-term decline**

The long term trend has seen the rate of fatalities more than halve over the last 20 years. [more>](#)

### **Production company pleads guilty to health and safety breaches following injury suffered by the actor Harrison Ford on Star Wars' set**

In our February 2016 bulletin we reported on the HSE's decision to prosecute Foodles Production (UK) Ltd (Foodles), a subsidiary of Disney, following a broken leg and other injuries suffered by the actor, Harrison Ford, whilst filming Star Wars: The Force Awakens. He was struck by a metal door on the set of the Millennium Falcon at Pinewood Studios on 12 June 2014. [more>](#)

## Case law

### Fines and sentences

#### Alton Towers hit with £5m fine following Smiler crash

Merlin Attractions Operations Ltd pleaded guilty to breaching s 3(1) HSWA and on 27 September was fined £5m with costs of £69,955.40. The prosecution followed the collision on the Smiler roller coaster on 2 June 2015 which resulted in 16 people being injured, two of whom had a leg amputation.

On the day of the incident, engineers on site overrode the Smiler's control system to allow a halted car to continue operating. However, this was without checking it was safe to do so. A second car with 16 passengers was then sent around the track and collided into the back of the empty carriage. The HSE estimated the velocity of the crash to equate to a family car of 1.5 tons having collided at about 90mph.

The HSE's investigations found no fault with the track, cars or control system which keeps the cars apart when the ride is running. The root cause of the incident was considered to be the lack of detailed robust arrangements for making safety critical decisions.

Prior to the accident, a test car had been sent around the 14 loop ride, but had become stuck due to wind speeds of up to 46 mph. Operating procedures for the ride prohibited such activity if there was a constant wind speed in excess of 34 mph. Whilst an alarm which goes off at high wind speeds had been placed on a ride alongside the Smiler, it failed to go off. Merlin have since installed wind speed measures on the Smiler itself.

Following the accident, there was a delay in removing the passengers, who were left hanging upside down in a car for over four hours after the crash. This was said to be due to a lack of a proper plan to remove passengers in an emergency situation, combined with a lack of understanding about the severity of the incident. Both these failings were seen as aggravating factors. Further aggravating factors were the number of people exposed to actual harm, and the existence of a previous conviction following an incident at Warwick Castle in 2012 when a visitor fell to his death and the risk assessment was lacking.

By way of mitigation, counsel for Merlin, Simon Antrobus, reasserted the public apology to those affected, which had first been given the day the incident occurred. The ride had been properly designed and independently assessed and a number of safety measures had been in place. Whilst it was assumed that engineers would check for the presence of a carriage by going trackside, it was accepted that there should have been a formal procedure outlining this requirement. It was confirmed that the company's revenues had dropped by £14m following the incident, and that 30 changes to safety measures, equipment and training had since been implemented.

The company's turnover for the three years prior to sentence averaged around £400m.

In applying the sentencing guidelines, Judge Michael Chambers QC remarked on the culpability of the company due to the lack of systems in place, and considered that there had been a high risk of harm (ie category 1). For a large company (turnover exceeding £50m) the appropriate range for high culpability category 1 cases is £1.5m - £6m. However, the judge noted that the guidelines permitted him to move outside the offence range if turnover very greatly exceeded the £50m threshold for large companies. He said it was certainly arguable that £400m turnover would justify that.

In the circumstances, the judge concluded that had there been a trial, the appropriate sentence would have been £7.5m ie beyond the above range. However, he gave full credit of one third to reflect the company's early guilty plea. The Judge's conclusion overall was that a fine of £5m was a proportionate sentence within the applicable offence range.

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## **Network Rail fined £4m for death of former actress Olive MacFarland killed at a level crossing**

On 24 August 2011, 82-year old former film and TV actress Olive MacFarland was struck down by a train travelling at nearly 100mph, as she attempted to pass a level crossing at Gypsy Lane near Needham Market, Suffolk.

Ms MacFarland had been staying in a care home but made a daily trip to feed her chickens at her nearby home when she was killed.

Ipswich Crown Court heard that a risk assessment of the Gypsy Lane crossing in July 2011, recommended reducing the speed limit to 80mph. However, a subsequent risk assessment the following month recommended a further reduction to 55mph. This was three weeks before the accident occurred.

There was poor visibility due to vegetation obscuring a pedestrian's view, a whistle warning was too close to the crossing, which would have given people time to avoid an oncoming train, and a dog leg between the two foot crossing gates increased the crossing time. Another failing by Network Rail was that although pedestrians had a five-second visual warning of the approaching Norwich-bound train, the crossing time could take double that for vulnerable users and children.

Network Rail said that although individual mistakes were made they had not ignored warnings or been guilty of systemic failings. When the suggestion of reducing the temporary speed limit was made, no action was taken due to a senior manager wanting to consider the idea in more detail, once he returned from leave. However, the court held that the decision should have been made there and then, with the speed limit being imposed immediately after Ms MacFarland's death.

Network Rail pleaded guilty to Section 3 of HSWA 1974 and was fined £4M. Judge Martyn Levett said the fine would have been £6m but for Network Rail pleading at the first opportunity. Network Rail stated that, after Ms MacFarland's death, the executive directors turned down bonuses so that more funds could be invested in rail safety improvements generally. Network Rail also stated that it was working on plans to replace the crossing with a footbridge.

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## **Homeware company fined £2.2m for death of an employee who fell from height during unloading process**

On 25 November 2014 William Richardson, an agency worker, was employed to unload pallets by Decco Ltd, Chesham, Buckinghamshire, a DIY wholesaler. Mr Richardson fell eight feet from a wet and inadequately guarded platform whilst unloading pallets. He was flown by helicopter to hospital but died following an eight-day coma.

It was revealed at Aylesbury Crown Court that spring-loaded gates designed to protect workers from the platform edge were badly worn. Mr Richardson slipped on the wet wooden platform onto a concrete floor below. Industry guidance (published seven years prior to the accident) stated that unguarded edges were dangerous. Despite this, the barriers were not fixed.

Judge Sheridan said that “The design was a Heath Robinson do-it-yourself contraption, in my view. The whole of the edge was unguarded which was simply disgraceful. This was an obvious danger. With or without safety advice, it would be idiotic to proceed without having regard to that. One doesn’t need guidance, one just needs a modicum of common sense to realise this system was wholly inadequate and a disaster waiting to happen. Those responsible for this company should hang their heads in shame at the failings that led to a man’s death”.

The company admitted two breaches of the HSWA 1974 and were fined £2.2m following a reduction from £3.3m due to an early guilty plea. The prosecution submitted that the company had an annual turnover of £100m last year and employed 255 permanent employees.

In mitigation, James Ageros QC, for the company said that they had no previous health and safety convictions in 80 years of trading. He said the company had gone “the extra mile” to ensure that the correct safety measures were in place post-accident.

The prosecuting authority was Chiltern District Council. This fine is the largest to date in a local authority prosecution

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### **Tata Steel fined £1.98m following serious injuries to the hands of two workers in two separate incidents involving machinery**

Northampton Crown Court heard how a 26-year-old employee lost the middle and ring fingers on his left hand while trying to clear a blockage on machinery at the company’s site in Corby, Northamptonshire, in September 2014. In a separate incident in February 2015, a 52-year-old lost part of his little finger when his hand was caught in a lathe at the same site.

In both cases inadequate guarding was discovered along with a failure to manage the risks arising from the separate machines.

Tata UK Limited pleaded guilty to two counts of breaching Section 2(1) of the HSWA 1974 and was fined a total of £1.98m (£185,000 for the first offence and £1.8m for the second offence). They were ordered to pay costs of £22,500.

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### **G4S fined £1.8m for failure to protect against the risk of Legionnaires’ disease from its water systems at its site in Harlow, Essex**

In October 2013, Harlow Council investigated the source of a G4S worker contracting Legionnaires’ disease. Although Harlow Council could not prove that the illness was contracted from the site it found various failings in maintaining water systems at the workplace.

Chelmsford Crown Court heard from Harlow Council how G4S had erratic monitoring and testing of systems, staff had received inadequate training, and there were no up to date policies

or suitable and sufficient risk assessments to safely operate or manage the building's water systems. Furthermore, G4S had failed to take steps to reduce the risk of Legionnaires' disease from its water systems, despite there being extensive guidance and advice from their own consultants and advice from Harlow Council.

G4S pleaded guilty to two charges under the HSWA 1974 and were ordered to pay £1.8m in fines and court costs of £34,000. For the purposes of the sentencing guidelines, the court found very high culpability with a low risk of harm. Although G4S's annual turnover brought them into the category of a very large organisation, their change of culture and monitoring systems led to the overall fine being reduced.

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### Fines on the increase in the Magistrates' Courts

On 2 March 2015, section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into force. This effectively enabled Magistrates to impose unlimited fines where previously their health and safety sentencing powers were limited to £20,000 per offence. Despite this development, most serious cases where significant fines are anticipated have continued to be committed to the Crown Court rather than retained in the Magistrates' Courts. However, two recent cases indicate a move towards more significant fines being imposed by Magistrates.

Parker Hannifin Manufacturing Ltd was fined £1m in Lincoln Magistrates' Court following a fatality caused by falling machinery in April 2015. Colin Reddish had been moving a large CNC milling machine which had been placed on jacks to allow him to use an angle grinder to cut the bolts that secured it to the floor. However, the work was not properly risk assessed and the workers tasked with lifting the machine did not have sufficient experience or training to complete the dangerous activity. The centre of gravity had not been properly assessed and resulted in the machine overturning and crushing Mr Reddish.

The company pleaded guilty to breaching Regulation 3(1) of the Management of Health and Safety at Work Regulations 1999 and section 2(1) of the HSWA and were fined £1m with full costs of £6,311 together with a victim surcharge of £120.

In a second case, a Bulgarian-based construction firm, Walltopia, with global offices, including one in Nottingham, was fined following a report by a member of the public of unsafe working practices during the construction of an adventure course in Markeaton Park, Derby.

The member of the public noticed work at height being carried out from a pallet on the forks of a telehandler. He firstly reported this to the company who assured him that the matter would be dealt with. However, unsafe work at height continued and the matter was reported to the HSE.

The HSE discovered that work was taking place on a section of roof 11 metres off the ground, without the use of any means to prevent two workers falling from the open edges. In addition, these workers were accessing the roof by climbing from the basket of a cherry picker.

Despite no one being injured, Derby Magistrates' Court fined Walltopia £500,000 and ordered them to pay costs of £8,013.25 after pleading guilty to breaching Regulation 4(1) of the Work at Height Regulations 2005.

These two cases illustrate Magistrates being willing to retain such cases within their jurisdiction and not to shy away from imposing heavy fines rather than committing the cases to the Crown Court.

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### **Italian manufacturer fined after worker loses all fingers and thumb in machinery**

An assistant farm manager from Norwich lost all his fingers and thumb of his left hand when it became caught in machinery.

Norwich Magistrates' Court heard how the farm manager was operating a firewood processing machine, which consisted of a circular saw, log splitter and conveyer. In the course of splitting a log, the worker's left hand became caught between the log and the splitting wedge, and all the fingers and the thumb on the hand were severed.

An investigation by the HSE into the incident which occurred on 13 February 2014 found that the machine which had recently been supplied, did not comply with the relevant British standard and it was not safe to use.

Rytec Industrial Equipment Limited, of Town Green Lane, Settrington, Malton, North Yorkshire, who supplied the machine in Great Britain, pleaded guilty to breaching Section 6(1) (a) HSWA 1974 (failed to ensure safe design and construction of work equipment), and was fined £14,000 and ordered to pay costs of £4,441.

Metal Agricola S.R.L., of Via Michelini, Levaldigi, Italy, who manufactured the machine, pleaded guilty to breaching section 6(1)(a) HSWA 1974, and was fined £14,000 and ordered to pay costs of £8,099.

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### **Suspended prison sentence following death of an agency worker killed in machine**

On 27 April 2012, Zydre Groblyte, 23, suffered a fatal head injury at RGE Engineering in Godmanchester, Cambridgeshire, when a machine started while she was inside it. An investigation by the HSE found that there was no effective system of guarding on the machine and that the accident could have been prevented.

Miss Groblyte, from Lithuania, had worked at the factory for approximately eight months. She had been making panels for washing machines, when it is believed that she bypassed a safety gate at which point a colleague was believed to have started the machine accidentally, with Miss Groblyte still inside.

The jury concluded that management should have known staff were accessing machines for maintenance other than through safety gates. They also found that a failure to provide a safety guard which deactivated the machine while someone was inside was a contributory factor in the death. There were also issues regarding communication with concerns being raised about the adequacy of training and supervision of staff with poor English.

Gordon Leach, who was a sole trader of RGE Engineering, admitted a breach of reg. 11(1) of the Provision and Use of Work Equipment Regulations 1998. This required employers to take measures preventing access to any dangerous part of machinery, or to stop the movement of any dangerous part before any person enters the machine.

Mr Leach was given a 15-month prison sentence, suspended for 24 months, fined £7,500 and ordered to pay the costs of £45,000. The prosecution was unusual as the HSE charged Mr Leach personally rather than the company, due to him being a sole trader.

Judge Sean Enright at Peterborough Crown Court found that Mr Leach's culpability was at the high end of medium. The likelihood of harm was medium and the overall harm category was raised to level 1. There was some mitigation with the judge being satisfied that Mr Leach had been let down by others.

The company was said to have an annual turnover of £30M. Had the sentencing guidelines been applied as above, the company, if prosecuted, would have been treated as a medium organisation, resulting in a starting point fine of £540,000 with a range of £300,000 to £1,300,000.

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### Company director jailed for 12 months following the death of one of his workers

On 29 January 2014, father-of-three Paul Williamson, 51 years of age, died when a remote controlled Mobile Elevated Working Platform (MEWP) he was loading onto a truck fell from the ramps and crushed him. The gradient of the ramps exceeded the manufacturer's specification and they were not secured to the lorry. As the MEWP was loaded onto the truck it toppled off the ramps on to Mr Williamson.

Mr Williamson had not been adequately trained on the use of the ramps, the lorry and the MEWP. There was no risk assessment in place and no safe system of work had been created for the equipment, which had only been in operation for eight days.

Company director Kenneth Thelwall, Enfield, was charged under s37 of the HSWA 1974 and sentenced to 12-months in prison and ordered to pay costs of £4,000. He was also disqualified from being a company director for seven years.

The employer company, Thorn Warehousing Ltd, was charged under s2 of the HSWA 1974, fined £166,000 and ordered to pay £10,400 costs. The company is currently in administration.

In 2010, another employee, Bernard Rowson, was crushed to death by a metal gate at an industrial estate in Winsford, Cheshire, owned and operated by Mr Thelwall's company, Thelwall Developments. Mr Thelwall had designed the gate system, but it jammed in the wrong position and fell forward, killing Mr Rowson.

In March 2012 Mr Thelwall was acquitted of a corporate manslaughter charge in a two-week jury trial at Chester Crown Court. However, he admitted separate safety charges, including failing to ensure the safety of the site.

At the hearing concerning Mr Williamson's death, Judge Leeming commented: "Two men have now tragically died in the workplace at a time when you were the sole director of the company. You have shown your intention to never again be a director of a company, but you may change your mind so I disqualify you from being a director of a company for seven years".

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## Corporate manslaughter

### **Building company fined £550,000 for corporate manslaughter of two men who fell from height at a construction site**

In the first corporate manslaughter sentencing under the sentencing guidelines in force from February 2016, Monavon Construction Ltd pleaded guilty to two counts of corporate manslaughter and a breach of the duty to non-employees under section 3(1) HSWA 1974.

Gavin Brewer, 32, and Stuart Meads, 34, were friends who had been arguing and scuffling as they walked home in the early hours of 19 October 2013. As they walked past a building site near Euston Station they came into contact with timber hoarding, which gave way and fell 3.7 metres into the basement. They both suffered fatal head and neck injuries.

Oliver Glasgow QC, for the prosecution, said the hoarding was not of sufficient height or strength.

At the Old Bailey the company was fined £250,000 for each of the corporate manslaughter offences, plus an additional £50,000 for the HSWA 1974 breach. The judge also imposed a publicity order on the company and ordered they pay costs of £23,000.

The sentencing was based on the company being a “micro organisation” with a turnover of much less than £2m. The court took into account the company’s good safety record and lack of previous prosecutions against it, as well as the remedial steps taken after the accident. There was also a reduction of each of the corporate manslaughter fines by £50,000 due to the company’s guilty pleas, but no explanation seems to have been given as to how this was assessed.

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## In the news

### Site manager jailed following fatal fall

On 24 January 2015, Mr Tasadaq Ur-Rehman, a father of two, was working on a building site in Leicester, when he fell through a skylight suffering fatal head injuries. A joint investigation by the HSE and Leicestershire Police established that Mr Faruk Patel, aged 40, the building site manager, had asked Mr Rehman to fit windows on the first floor. However, shortly after arriving on site he fell three metres through an open skylight on the flat roof of the first floor.

On a subsequent visit two days later the HSE issued a prohibition notice upon Mr Patel preventing any further work at height. On two further visits the HSE found that work had continued. When the police attended on 10 February 2015 and again found evidence of continued work, Mr Patel was arrested and charged with gross negligence.

The investigation discovered various failings, including no scaffolding in the area where the windows were to be fitted, no safe method of transferring the windows to the first floor (access was by way of a broken, untethered ladder) and the ladders were not secured properly, with one found balancing in a pile of sand.

On 15 July 2016, a jury at Birmingham Crown Court convicted Mr Patel of manslaughter by gross negligence. Mr Patel had previously pleaded guilty in December 2015 to three health and safety offences. He was sentenced to two-and-a-half years in prison for manslaughter and eight months for the health and safety offences, to run concurrently.

On sentencing Mr Justice John Saunders said: "It seems the defendant had no idea of the responsibilities he had for maintaining the safety of the site. The defendant paid no regard to health and safety requirements whatsoever."

Mr Justice Saunders went on to say that: "It is an aggravating feature that despite a prohibition notice the defendant continued to allow people to work on both the first and second floor. The second offence was after Mr Ur-Rehman died. I take into account that he had no intention of Mr Ur-Rehman suffering harm and never thought he might. Nevertheless, the defendant caused a death through gross negligence".

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### Merseyside landlord jailed for manslaughter of former serviceman

Steven Weedon, 33, an unemployed ex-serviceman, rented his home from Anthony Minehan, along with two other unemployed ex-servicemen. They had been put in touch with Mr Minehan via a charity called "Soldiers off the Streets" offering help to homeless, ex-service personnel.

The men were to carry out some painting and other small jobs on the outside of Mr Minehan's home, a large three storey Victorian house, which had recently undergone the installation of a cavity wall. The scaffolding was still in place and the men were to be paid £30 in cash per day.

On 26 March 2014 Mr Weedon fell from the scaffolding. The exact cause of the fall could not be determined, although the Court heard a neighbour had seen him fall from the scaffolding. His workmates had wanted to call the emergency services but Mr Minehan had refused. Despite Mr Weedon being clearly injured, Mr Minehan and the other two men took Mr Weedon home

and put him to bed. The next morning one of the co-workers found Mr Weedon on the floor dead. He had suffered a fatal head injury with fractures to his skull, face and ribs. A post mortem later revealed that the cause of death to be a blunt force injury to the left side of his head consistent with a fall from height.

Following Mr Weedon's death, Mr Minehan threatened one of the other two men not to tell the police that Mr Weedon had been working for him on the scaffolding or they could lose their accommodation and income. There were also attempts to clear the scene of any evidence by disposing of Mr Weedon's hat and gloves and cleaning up the blood. However, the clothes were found in an outside fridge after the Police took a sniffer dog to the scene to investigate Mr Weedon's death.

An investigation revealed that the scaffolding had not been erected properly and was not fit for purpose. Although the scaffolding had been erected by a different company, Abacus Scaffolding North West (Abacus), Mr Minehan had assumed control at the time of the incident.

Mr Weedon suffered with epilepsy and post-traumatic stress disorder (due to his time serving in Iraq) so should not have been working at height or standing on the scaffolding in the first place.

Mr Minehan eventually pleaded guilty to gross negligence manslaughter, attempting to pervert the course of justice and breaching s2(1) HSWA 1974. He was sentenced to three years and four months in prison and ordered to pay costs of £7,000.

Abacus and its director Mr Rickie Lake were sentenced for various health and safety breaches. Abacus was fined £70,000 for a breach of s 3(1) HSWA and ordered to pay costs of £3,000. Mr Lake admitted a breach of s37(1) HSWA 1974 due to his company's offence being committed with his consent, connivance or neglect. He was ordered to do 120 hours of unpaid community work, pay costs of £2,000 and was disqualified from holding a company directorship for two years. For both Abacus and Mr Lake, in applying the relevant sentencing guidelines, the Judge determined the category of culpability was high with a harm category level of 2 (medium likelihood of harm, seriousness of harm risked: level A).

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## Employers of lone worker who died from carbon monoxide poisoning face fines

During the early hours of 6 December 2014, Mr Javaid Iqbal, a 29-year-old father of three, was employed by KK Security Services Ltd (KK Security) as a security guard on a construction site in Leigh, Wigan. KK Security was sub contracted by Veritas Security (Southern) Ltd (Veritas).

The site's generator failed in sub-zero temperatures. In an attempt to keep warm Mr Iqbal lit some barbecue coals in a wheelbarrow, which he placed in a 20-foot steel container used as the site office. Mr Iqbal was found dead by police a few hours later having died from carbon monoxide poisoning.

The HSE investigation found a number of failings, including:

- Mr Iqbal had made a number of attempts to re-start the site generator and had sought assistance from both his employers but neither had provided any meaningful assistance to him
- KK Security failed to provide a management system to protect the welfare and safety of their employees, particularly lone workers

- no real provision had been made by KK Security for emergency support, the only option open to Mr Iqbal being to ring his employer who was hundreds of miles away and could offer no practical assistance
- Veritas failed to put proper arrangements in place with the site occupier for emergency situations outside office hours, such as a loss of power or heating.

KK Security pleaded guilty to breaching section 2(1) of HSWA 1974 and was fined £8,000 along with £4,854 costs.

Veritas pleaded guilty to breaching section 3(1) of HSWA 1974 and was fined £8,000 plus costs of £6,220 costs. Both parties were also required to pay an additional £120 victim surcharge.

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## Round up

### New Minister of State for Disabled People, Health and Work

Penny Mordaunt MP has been appointed as Minister of State for Disabled People, Health and Work with responsibility for oversight of HSE.

This new title reflects the broader portfolio she is taking on, which will include all areas related to supporting disabled people and those with long-term health conditions.

The minister's responsibilities include:

- cross-government disability issues
- disability employment, including Disability Confident, Work Choice, Access to Work, the Work and Health Programme and mental health in the workplace
- support for those at risk of falling out of work, including Fit for Work and Statutory Sick Pay
- financial support for sick and disabled claimants, including within:
  - Universal Credit
  - Disability Living Allowance
  - Personal Independence Payment
  - Employment and Support Allowance
  - Attendance Allowance
  - Industrial Injuries Disablement Benefit
  - Carer's Allowance
- specific welfare and health-related issues, including the Mesothelioma Payment Scheme, Motability and oversight of the Health and Safety Executive.

The minister forms part of a DWP ministerial team, which also includes Damien Hinds MP as Minister of State for Employment.

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### The HSE's annual report on work-related fatal injuries shows a plateau of fatalities after a long-term decline

The long term trend has seen the rate of fatalities more than halve over the last 20 years.

In 2015-16, 144 people were killed while at work at a rate of 0.46 per 100,000 workers. This rate was the same for 2014-15 and marginally above the rate of 0.45 for 2013-2014 when 136 workers died.

The HSE has called on all sectors to learn lessons to ensure workers' safety.

The new figures show the rate of fatal injuries in key industrial sectors:

- forty three workers died in construction, the same as the average for the previous five years
- in agriculture there were 27 deaths (compared to the five-year average of 32)
- in manufacturing there were 27 deaths (compared to five-year average 22), but this figure includes three incidents that resulted in a total of eight deaths
- there were six fatal injuries to workers in waste and recycling, compared to the five-year average of seven, but subject to considerable yearly fluctuation.

There were also 103 members of the public fatally injured in accidents connected to work in 2015/16, of which 36 (35%) related to incidents occurring on railways.

Comparisons of fatal injuries by country or region are based on where the accident occurred. In 2015/16 the highest fatal injury rates across all countries and regions were Wales (0.93 per 100,000 workers); Scotland (0.60); and Yorkshire and the Humber (0.58). Due to the relatively small numbers and to reduce some of the yearly fluctuation, when averaged across a five-year time period to 2014/15 those regions with the highest fatal injury rates were also Wales (0.81), Scotland (0.73) and Yorkshire and the Humber (0.70).

The statistics do not include the three men who died in the collapse of the Didcot Power Station in February 2016, the last of the three bodies being identified on 9 September 2016.

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### **Production company pleads guilty to health and safety breaches following injury suffered by the actor Harrison Ford on Star Wars' set**

In our February 2016 bulletin we reported on the HSE's decision to prosecute Foodles Production (UK) Ltd (Foodles), a subsidiary of Disney, following a broken leg and other injuries suffered by the actor, Harrison Ford, whilst filming Star Wars: The Force Awakens. He was struck by a metal door on the set of the Millennium Falcon at Pinewood Studios on 12 June 2014.

Foodles pleaded guilty to one count under s2 HSWA 1974 and a second under s3. Two further charges, under Regulation 3(1) of the Management of Health and Safety at Work Regulations 1999, and one under Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998, were both withdrawn.

On 26 July 2016 at Milton Keynes Magistrates' Court, Foodles pleaded guilty to failing to protect actors and workers. The case was transferred to Aylesbury Crown Court for sentencing, which has been adjourned until October 2016. Foodles are expected to contest the level of risk of the accident.

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## About RPC

RPC is a modern, progressive and commercially focused City law firm. We have 79 partners and over 600 employees based in London, Hong Kong, Singapore and Bristol.

*"... the client-centred modern City legal services business."*

At RPC we put our clients and our people at the heart of what we do:

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- Winner – Competition and Regulatory Team of the Year – The British Legal Awards 2015
- Winner – Law Firm of the Year – The Lawyer Awards 2014
- Winner – Law Firm of the Year – Halsbury Legal Awards 2014
- Winner – Commercial Team of the Year – The British Legal Awards 2014
- Winner – Competition Team of the Year – Legal Business Awards 2014
- Winner – Best Corporate Social Responsibility Initiative – British Insurance Awards 2014

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