

HSE Successful Prosecution

April 2022

Engineering firm sentenced after fatal incident

- The Company was fined £500,000 and ordered to pay costs of £145,487. Graham Engineering Ltd's Manufacturing Director was acquitted of an associated charge under Section 37 of the Health and Safety at Work etc Act 1974.

Soft furnishings company fined after employee injured by unguarded machinery

- Azura Soft Furnishings Limited, of Highfield Industrial Estate, West End Street, Oldham, pleaded guilty to breaching section 2(1) of the Health and Safety at Work etc. Act 1974. The company was fined £13,600 and ordered to pay costs of £17,260.
- Company director, Tariq Majid, of Oldham, accepted a formal caution with regard to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974.

Food manufacturing company fined after worker falls from ladder

- The Clarendon Food Company Limited of Bryn, Y Ffor, Pwllheli, Gwynedd pleaded guilty to breaching section 2 of the Health and Safety at Work etc Act 1974. They were fined £40,000 and ordered to pay costs of £5,344.30.

Priory Healthcare Ltd pleads guilty following HSE investigation

- Priory Healthcare Ltd appeared before Westminster Magistrates' Court, on Wednesday 20 April, and pleaded guilty to failing to discharge a duty under Section 3(1) Health and Safety at Work etc. Act 1974. Its conviction follows the death of 21-year-old Francesca Whyatt after she was discovered unconscious at The Priory Hospital, Roehampton on 25 September 2013.

North West construction company fined after building collapse

- Mughal Construction Limited of Levenshulme Trading Estate, Printworks Lane, Manchester pleaded guilty of breaching Regulations 13(1) and 19(1) of the Construction (Design and Management) Regulations 2015. The company was fined £30,000 and ordered to pay costs of £3,000.

Construction company fined after child struck by wall collapse

- Gurmit Properties Ltd of Albion Street Castleford West Yorkshire pleaded guilty to breaching Section 3 (1) of the Health & Safety at Work etc Act 1974. The company has been fined £22,500 and ordered to pay £11,998.80 in costs.

Chemical company fined after worker suffered burns

- Robert McBride Ltd of Hornscliff Park, Kinswood, Hull pleaded guilty to breaching Regulation 6(1) of the Dangerous Substances and Explosive Atmospheres Regulations (DSEAR) 2002. The company was fined £480,000 and ordered to pay costs of £13,441.80.

Two contractors sentenced after cable strike at substation

- Siemens Energy Ltd of C A Parsons Works, Shields Road, Newcastle Upon Tyne, NE6 2YL pleaded guilty to breaching Regulation 13(1) of the Construction Design and Management Regulations 2015 and was fined £900,000 and ordered to pay costs of £6,327.52.
- Volkerinfra Ltd of Hertford House, Hoddesdon, Hertfordshire pleaded guilty to breaches of Section 3 (1) Health & Safety at Work etc. Act 1974 and was fined £180,000 and ordered to pay costs of £6,430.72.

HSE issues MOD with Crown Censure following severe injuries to employee

- By accepting the Crown Censure, the MoD admitted breaching its duty under Section 2(1) and Section 3 (1) of the Health and Safety at Work etc. Act 1974 in that they failed to ensure, so far as was reasonably practicable, the health, safety and welfare at work of its employees, and persons not in their employment, particularly in relation to the risks associated with training exercises.

Property Management Company fined following a gas explosion

- Holt Estates England Ltd of High Street in Caterham, Surrey was found guilty of breaching Section 3(1) of the Health and Safety at Work Act. The company was fined £40,000 and ordered to pay costs of £11,105.90

The pick of the month is “North West construction company fined after building collapse”

- A Manchester construction company was fined after much of a three-bedroom domestic property in Stretford collapsed during a loft conversion and ground floor extension work.
- Manchester Magistrates’ Court heard that on 4 May 2020, Mughal Construction Limited had been carrying out a loft conversion when it collapsed, causing workers to flee from the site. The building had insufficient temporary supports and workers did not have sufficient skills, knowledge and experience, to carry out the work safely.
- An investigation by the Health and Safety Executive (HSE) found that the company had failed to properly plan, manage, and monitor the work. It had failed to provide adequate health and safety measures to prevent the risk of collapse at the property including sufficient measures to ensure it remained safe and stable.
- Mughal Construction Limited of Levenshulme Trading Estate, Printworks Lane, Manchester pleaded guilty of breaching Regulations 13(1) and 19(1) of the Construction (Design and Management) Regulations 2015. The company was fined £30,000 and ordered to pay costs of £3,000.

Duties of a principal contractor in relation to health and safety at the construction phase

13.—(1) The principal contractor must plan, manage and monitor the construction phase and coordinate matters relating to health and safety during the construction phase to ensure that, so far as is reasonably practicable, construction work is carried out without risks to health or safety.

Stability of structures

19.—(1) All practicable steps must be taken, where necessary to prevent danger to any person, to ensure that any new or existing structure does not collapse if, due to the carrying out of construction work,

Regulations 4 and 5 set out the client's duty to make suitable arrangements for managing a project and maintaining and reviewing these arrangements throughout, so the project is carried out in a way that manages the health and safety risks. For projects involving more than one contractor, these regulations require the client to appoint a principal designer and a principal contractor and make sure they carry out their duties.

The client has a major influence over the way a project is procured and managed. Regardless of the size of the project, the client has contractual control, appoints designers and contractors, and determines the money, time and other resources available.

“construction work” means the carrying out of any building, civil engineering or engineering construction work and includes—

- a) the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure, or the use of corrosive or toxic substances), de-commissioning, demolition or dismantling of a structure;*
- b) the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation (but not pre-construction archaeological investigations), and the clearance or preparation of the site or structure for use or occupation at its conclusion;*
- c) the assembly on site of prefabricated elements to form a structure or the disassembly on site of the prefabricated elements which, immediately before such disassembly, formed a structure;*
- d) the removal of a structure, or of any product or waste resulting from demolition or dismantling of a structure, or from disassembly of prefabricated elements which immediately before such disassembly formed such a structure;*
- e) the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure,*

CDM is not limited to construction industry and it is important to understand that “construction work” also applies to many FM activities.