

## HSE Successful Prosecution

September – November 2022

Demolition firm and director prosecuted after 20-year-old labourer crushed

- Ace Demolition Services Ltd was fined £20,000 and ordered to pay costs of £9,731 at Chelmsford Magistrates' Court on 24 November 2022. John Gilligan was given a 12-month community order with a requirement to undertake 250 hours of unpaid work.

Health board fined £160,000 after employees diagnosed with Hand Arm Vibration Syndrome

- Powys Teaching Health Board of Glasbury House, Bronllys Hospital, Bronllys, Powys, Wales, pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974. They were fined £160,000 and ordered to pay costs of £5,599 at Wrexham Magistrates' Court on 22 November 2022.

Fatal skylight fall – company and director sentenced

- Melvyn Davis, of Field Place, Wakefield, pleaded guilty to breaching Section 37(1) of the Health and Safety at Work etc. Act 1974 and was sentenced to eight weeks imprisonment suspended for 12 months and ordered to do 15 days of rehabilitation activity at Sheffield Magistrates' Court on 16 November 2022.
- Davis Industrial Roofing Limited, of Field Place, Wakefield, pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974 and was fined £20,000 and ordered to pay costs of £12,557.

Company fined after skylight fall puts worker in a six-week coma

- MH Costa Construction Limited of Beauchamp Court, Victors Way, Barnet, Hertfordshire, pleaded guilty to a breach of Regulation 13 (1) of the Construction (Design and Management) Regulations 2015. They were fined £96,000 and ordered to pay £18,965.66 in costs at Southwark Crown Court on 14 November 2022.

Transport company fined after driver killed loading and unloading a trailer

- At a sentencing hearing at Salisbury Magistrates' Court on 13 October, Arnold Laver & Company Ltd, Bramall Lane, Sheffield, pleaded guilty to breaching section 2(1) of the Health and Safety at Work Act. Passing

sentence today (November 9) they were fined £400,000 and ordered to pay costs of £19,841.99.

#### Scrap metal company fined after worker loses four fingers

- Infinity Metals Limited, of Spur Road, Quarry Lane Industrial Estate, Chichester pleaded guilty to breaching Section 2 (1) of the Health & Safety at Work etc Act 1974. The company was fined £26,680 and ordered to pay prosecution costs of £7,005.50 at Leeds Magistrates' Court on 9 November 2022.

#### Agricultural firm fined after worker has finger amputated after trapping his hand in machine

- CYO Seeds Ltd, of Chilton, Oxfordshire, pleaded guilty to breaching Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998. They were fined £15,000 and ordered to pay costs of £3,300 at Oxford Magistrates' Court on 8 November 2022.

#### Eddie Stobart fined after workers exposed to asbestos

- Eddie Stobart Ltd, of Stretton Green Distribution Park, Langford Way, Appleton, Warrington, Cheshire pleaded guilty to breaching Regulation 5 of The Control of Asbestos Regulations 2012 and Regulation 11(1) of The Control of Asbestos Regulations 2012. The company was fined £133,000 and ordered to pay costs of £9,260 on 4 November 2022.

#### Two companies fined after driver is crushed while unloading vehicle

- LM Bateman and Company Limited of Island Works, Cheadle Road, Cheddleton, Leek, Staffordshire pleaded guilty to breaching Sections 2 (1) and 3(1) of the Health and Safety at Work Act 1974. They were fined £120,000 and ordered to pay costs of £16,334 and a victim surcharge of £100 at North Staffordshire Justice Centre on 7 November 2022.
- Joseph Ash Limited of Westhaven House, Arelston Way, Shirley, Solihull, West Midlands pleaded guilty to breaching Sections 2(1) and 3 (1) of the Health and Safety at Work Act 1974. They were fined £239,000 and ordered to pay costs of £17,834 and a victim surcharge of £100 at North Staffordshire Justice Centre on 7 November 2022.

#### Ventilation testing company fined for putting hundreds at risk

- Airtec Filtration Ltd, of Manor Street, St Helens pleaded guilty to contravening Section 3(1) of the Health and Safety at Work etc Act 1974.

The company was fined £2,666 and ordered to pay costs of £4,074 at Manchester Magistrates' Court on 4 November 2022.

#### Companies given six-figure fines after HGV driver seriously injured

- Segro Administration Limited, of New Burlington Place, London pleaded guilty to breaching the Health and Safety at Work etc. Act 1974 Section 3(1). Airworld Airlines Ltd, of High Street, Sunninghill, Ascot, and Unilode Aviation Solutions UK Limited, of Hatton Cross Centre, Heathrow, Middlesex, both pleaded guilty to breaches of the Health and Safety at Work etc. Act 1974 Sections 2(1) and 3(1).
- Segro Administration Limited was fined £320,000 and ordered to pay costs of £17,584, Airworld Airlines Ltd was fined £120,000 and ordered to pay costs of £17,605, and Unilode Aviation Solutions UK Limited was fined £110,000 and ordered to pay costs of £10,878 at Southwark Crown Court on 1 November 2022.

#### Family-run company fined after member of public is crushed

- FDS (Cambridge) Ltd of Ely Road, Little Thetford, Ely, Cambridgeshire pleaded guilty to contravening Regulation 3 (1) of the Health and Safety at Work Act 1974. The company were fined £18,000 and ordered to pay £9,354.58 in costs at Peterborough Magistrates' Court on 4 November 2022.

#### Scaffolding company fined after worker injured in fall through skylight

- GK Worden & Son Ltd of St Ann's Chapel, Gunnislake, Cornwall, pleaded guilty to breaching Section 4(1) of the Work at Height Regs 2005, and was fined £24,000 and ordered to pay costs of £14,000 at Plymouth Magistrates' Court on 1 November 2022.

#### Blackburn building firm fined for multiple safety failings

- Mullberry Homes Limited of Old Hall Lane, Blackburn pleaded guilty to breaching regulation 13 of the Construction (Design and Management) Regulations 2015. The company was fined £116,666 and ordered to pay costs of £8294.40 at Manchester Crown Court on 31 October 2022.
- Alistair Wilcock of Deer Park, Accrington, was served with a formal caution after accepting he was guilty of breaching section 37 of the Health and Safety at Work etc Act 1974, in relation the company's failing of regulation 13 of the Construction (Design and Management) Regulations 2015 on the basis of neglect. It is accepted by HSE that

responsibility for compliance with the relevant legislation was not limited to Mr Wilcock.

#### Construction company and two workers sentenced after worker suffers electric shock

- Connop and Son Limited, of Folly Farm, Eardisland, Leominster pleaded guilty to breaching regulation 14 of the Electricity at Work Regulations 1989. The company was fined £50,000 and ordered to pay costs of £5425 plus a victim surcharge of £181 at Oxford Magistrates' Court on 28 October 2022.
- Alexander Maddan, of Deddington, Banbury, Oxon pleaded guilty to breaching regulation 13 (1) of Construction Design and Management Regulations 2015. Mr Maddan was fined £3,000 and ordered to pay costs of £525 plus a victim surcharge of £181 at Oxford Magistrates' Court on 28 October 2022.
- Shaun Walker, of Swinford Leys, Wombourne, Wolverhampton pleaded guilty to breaching section 7 of the Health and Safety at Work Act. Mr Walker was handed a 12-month community order with a requirement to carry out 60 hours of unpaid work and ordered to pay costs of £2,000 plus a victim surcharge of £90 at Oxford Magistrates' Court on 28 October 2022.

#### Building contractor and director fined after fire risk failings

- S&S Quality Building Contractors Limited of Hawthorn Business Park, Granville Road, London, pleaded guilty to breaching 3(1) of the Health and Safety at Work etc Act 1974. The company was fined £600,000 and ordered to pay costs of £36,894 at Basildon Crown Court on 25 October 2022.
- Company director Shlomo Pines, of St. Johns Road, Golders Green, London pleaded guilty to contravening Section 37 of the Health and Safety at Work etc Act 1974. He received a community order to complete 100 hours of unpaid work and was fined £4,200.

#### Company fined £20,000 after worker fell through station canopy

- G Nicholson (Engineers) Limited, of Blue House Lane, Washington Tyne and Wear pleaded guilty to breaching Section 4(1) of the Work at Height Regulations 2005 at Gateshead Magistrates' Court on 12 October 2022 and was fined £20,000, with £7,825 costs and a victim surcharge of £190.

#### Nestle fined after worker suffers injuries at chocolate factory

- Nestle UK Ltd of City Place, Gatwick, West Sussex, pleaded guilty to breaching Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998 and was fined £800,000, ordered to pay costs of £7776.50 and a victim surcharge of £190 at South Tyneside Magistrates' Court on October 19.

#### Worker died after falling into a hot water tank at an industrial cleaning company

- At Preston Magistrates' Court on October 18, Pan Glo (UK) Ltd of Seddon Place, Skelmersdale, Lancashire pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974. The company was fined £200,000 and ordered to pay costs of £14,597.17.

#### Company fined £440,000 after security guard seriously injured

- Dunbia (UK), of Castle Street, Exeter, pleaded guilty to breaching Section 3(1) of the Health & Safety at Work etc. Act 1974. the company was fined £440,000 and ordered to pay costs of £27,016 and a victim surcharge of £170 at Plymouth Magistrates Court on 12 October 2022.

#### Furniture retailer fined for insurance breach

- Exclusive Oriental Classics Ltd, of Bellfield Avenue, Harrow, pleaded guilty to breaching Section 1(1) of the Employers' Liability (Compulsory) Insurance Act 1969, fined £1,650, a victim surcharge of £165 and ordered to pay costs of £1750.
- The Director, Mr Kian Hoo Tay, of same address pleaded guilty to breaching Section 1(1) of the Employers' Liability (Compulsory) Insurance Act 1969, fined £1,650, a victim surcharge of £165 and ordered to pay costs of £1750.

#### Building firm fined after workers were put at risk during warehouse renovation, and for breaching Prohibition Notice

- On 10 October Shiva Ltd of Lincoln Tower, Westminster Bridge Road, London, pleaded guilty to breaching Sections 2(1) and 3(1) of the Health and Safety at Work etc Act 1974, and breaching the Prohibition Notice. They were fined £46,000 and ordered to pay costs of £24,688.10.

Contractor fined after unsafe work leaves food factory employee seriously injured

- At Folkestone Magistrates' Court on October 10, Bedford Transmissions Limited pleaded guilty for a breach of Regulation 4(1) of the Work at Height Regulations 2005. They were fined £8,000 and ordered to pay costs of £7,194.32.

Chemicals company fined after releasing cloud of chlorine gas into factory

- GEA Farm Technologies (UK) Ltd, based on Watery Lane, Warminster, Wiltshire pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974 and were fined £40,000 and ordered to pay costs of £22,000 at Basingstoke Magistrates' Court on 4 October 2022.

Worker hurt falling from gantry – company fined £27,000

- GEA Refrigeration UK Ltd, of Ludgate Hill, London, pleaded guilty to breaching Section 4(1) of the Work at Height Regulations 2015, and was fined £27,000 and ordered to pay £35,000 costs and a victim surcharge of £170 at Bristol Crown Court on 30 September 2022.

Company fined for workers' excessive radiation exposure

- Alliance Medical Limited, based at Icen Centre, Warwick Technology Park, Warwick, Warwickshire pleaded guilty to breaches of the Ionising Radiations Regulations 2017, Regulations 12, 18(3), 18(4) and 18(5)a, and were fined £300,000 and ordered to pay costs of £11,382 at Leeds Magistrates' Court on 29 September 2022.
- Alliance Medical Radiopharmacy Limited, also based at Icen Centre, Warwick Technology Park, Warwick, Warwickshire pleaded guilty to breaches of the Ionising Radiations Regulations 2017, Regulations 9(2)a, 11(1) and 12, and were fined £120,000 and ordered to pay costs of £11,382 in the same court on the same date.

Construction company fined after worker falls through fragile roof

- Cairns Heritage Homes Limited, of Rectory Place, Old Parsonage Lane, Hoton, Loughborough, Leicestershire pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974. They were fined £80,000 and ordered to pay costs of £9,981 at Nottingham Magistrates' Court on 28 September 2022.

Worker broke his back in 2ft fall from forklift truck

- Reliable Shipping Limited, of Severalls Industrial Park, Colchester, Essex pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974. The company appealed against a fine of £500,000, which was reduced to £400,000 at Chelmsford Magistrates' Court on 23 September 2022. The company was ordered to pay £6,336 costs.

Firm failed to control risks to employees from vibration

- Andrew Hatto and Paul Kiff, trading as Roywood Contractors, of Tilford Road, Tilford, Farnham, Surrey pleaded guilty to breaching Regulation 6 (1) and 7 (1) of the Control of Vibration Regulations 2005. They were each fined £1,150 and ordered to pay costs of £3,500 each at Basingstoke Magistrates' Court on September 20.

Company fined after employee becomes drawn into a machine

- At Folkestone Magistrates Court on 21 September Amberset Limited pleaded guilty to breaching regulation 11(1)(a) of the Provision and Use of Work Equipment Regulations 1998. The company was fined £2,000 and ordered to pay full costs of £2,197.65.

Engineering company hit with fine after man installing bird deterrent spikes fell from roof

- At Lincoln Magistrates Court on Wednesday 21 September, Craven and Nicholas (Engineering) Ltd of St Johns Road in Boston pleaded guilty to breaching Regulations 4(1)(a) and 4(1)(c) of the Work at Height Regulations 2005. They were fined £14,000 and also ordered to pay £6,541.80 in costs.

Manufacturing company fined after worker injured by machinery

- ADA Machining Services Ltd, of Richmond Street, Ashton-under-Lyne, pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974 and was fined £20,000 with £4,952 costs at Manchester Magistrates' Court on September 20 2022.

Firm fined £115,000 after worker's hand was cut off in machine

- Riftward Packaging, of Ash Road, Wrexham Industrial Estate, Wrexham pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974. The company was fined £115,000 and ordered to pay costs of £5,308 and a victim surcharge of £190 at Llandudno Magistrates' Court on September 14.

Motor's manufacturing company prosecuted after employee severs finger

- At Poole Magistrates Court on 8 September, Parvalux Electric Motors Limited of Wallisdown Road, Bournemouth, pleaded guilty to breaching Section 2 (1) of the Health and Safety Work Act 1974. They were fined £60,000 and ordered to pay costs of £8,000.

Company fined £200,000 after worker injured cleaning machinery

- Mexichem Specialty Compounds Limited, of Beler Way, Melton Mowbray, pleaded guilty to contravening Section 2(1) of the Health and Safety at Work etc Act 1974 and was fined £200,000 and ordered to pay costs of £7,846.78 at Derby Magistrates Court on 6 September 2022.

Two directors fined for unsafe removal of asbestos

- At Manchester Magistrates' Court on 6 September, company director Anthony Sumner of Stamford Road, Denton, Manchester pleaded guilty to breaching section 3(2) of the Health and Safety at Work etc. Act 1974. He was fined £1,400 and ordered to pay costs of £2,418.33.
- Company director Neil Brown of Amlwch, Anglesey, Gwynedd, also pleaded guilty to breaching section 3(2) of the Health and Safety at Work etc. Act 1974 and was fined £1,400 and ordered to pay costs of £2,418.33.

Companies and employees sentenced after 18-year-old worker's death

- D. Brown (Building Contractors) Limited of Seas End Road, Spalding, were found guilty of contravening Section 3(1) of the Health and Safety at Work etc Act 1974. They were fined £300,000 and ordered to pay costs of £15,765.92
- P & R Plant Hire (Lincolnshire) Limited of Station Road, Cambridgeshire, pleaded guilty to contravening Section 2(1) of the Health and Safety at Work etc Act 1974. The company was fined £24,000 and ordered to pay costs of £2,264.87.
- Brent Woods of North Parade, Holbeach, Spalding was found guilty of contravening Section 7(a) of the Health and Safety at Work etc Act 1974. He was sentenced to 18 weeks imprisonment suspended for two years and ordered to complete 200 hours of community service and pay costs of £1200.
- Darrell Tripp of Broadgate Lane, Deeping St James, Peterborough was found guilty of contravening Section 7(a) of the Health and Safety at Work etc Act. He was sentenced to eight weeks imprisonment suspended for two years and ordered to pay costs of £1200.



## **Blackburn building firm fined for multiple safety failings**

A Blackburn building firm has been fined £116,666 after a long history of health and safety failings.

An investigation by the Health and Safety Executive (HSE) found Mullberry Homes Limited failed to plan, manage, and monitor health and safety work on construction sites across England.

Mullberry Homes Limited was given a series of Notification of Contravention (NoC) letters, official correspondence that outline how firms need to improve and provide advice on doing so. They also received a significant number of formal Improvement and Prohibition Notices due to unsafe work, yet the firm repeatedly failed to ensure the work being done on their sites, including in Aintree, Liverpool; Middleton, Rochdale and Thorncliffe Road, Barrow-in-Furness was carried out safely and without risks to health. The company failed to reach the required basic legal standards.

The HSE investigation also found that Alistair Wilcock, in his role as managing director at Mullberry Homes Limited, should have ensured measures were taken to comply with each concern when it was raised by HSE and these measures were maintained.

Mullberry Homes Limited of Old Hall Lane, Blackburn pleaded guilty to breaching regulation 13 of the Construction (Design and Management) Regulations 2015. The company was fined £116,666 and ordered to pay costs of £8294.40 at Manchester Crown Court on 31 October 2022.

Alistair Wilcock of Deer Park, Accrington, was served with a formal caution after accepting he was guilty of breaching section 37 of the Health and Safety at Work etc Act 1974, in relation the company's failing of regulation 13 of the Construction (Design and Management) Regulations 2015 on the basis of neglect. It is accepted by HSE that responsibility for compliance with the relevant legislation was not limited to Mr Wilcock.

HSE inspector Matt Greenly said: "Companies have a duty of care to those they employ and HSE will not hesitate to take appropriate enforcement action against those that fall below the required standards. Mullberry Homes and their director, Mr Wilcock had every opportunity to improve standards and maintain these improvements but they sadly failed to do so and continued to put workers and contractors at risk.

"Mullberry Homes Limited, and it's previous company name of Paddle Limited, has a long history of formal enforcement and prosecutions from HSE and it is hoped that this case will serve as a wake-up call for them to ensure that their management is robust enough to maintain any and all health and safety improvements they make in the future."

Regulation 13 of the Construction (Design and Management) Regulations 2015  
- Duties of a principal contractor in relation to health and safety at the construction phase.

For a better understanding of the CDM regulations, ACOP L153 provides guidance on the Regulations and in particular page 36 on duties of a principal contractor.

Key points are:

A principal contractor is the organisation or person that coordinates the work of the construction phase of a project involving more than one contractor, so it is carried out in a way that secures health and safety. They are appointed by the client and must possess the skills, knowledge, and experience, and (if an organisation) the organisational capability to carry out their role effectively given the scale and complexity of the project and the nature of the health and safety risks involved.

**It is essential that there is clarity over who is in control during the construction phase in any part of the site at any given time.**

Good management of health and safety on site is crucial to the successful delivery of a construction project. In liaison with the client and principal designer, principal contractors have an important role in managing the risks of the construction work and providing strong leadership to ensure standards are understood and followed.

Section 37 of the Health and Safety at Work etc Act 1974 - Offences by bodies corporate.

(1) Where an offence under any of the relevant statutory provisions committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.