



## **CORPORATE HEALTH AND SAFETY COMMITTEE – 16TH JUNE 2014**

**SUBJECT: RECENT HSE UPDATES**

**REPORT BY: INTERIM CHIEF EXECUTIVE**

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### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to inform Members, Management and Trade Union Safety Representatives of recent updates in Health and Safety information, advice and guidance.

### **2. SUMMARY**

- 2.1 The following report is provided as information for members of the Committee, to ensure they are kept informed of changes to health and safety legislation and approved codes of practice which will affect the Council, as well as advising of any relevant accidents, incidents and prosecutions.

### **3. LINKS TO STRATEGY**

- 3.1 The report is provided as information to Members of the Health and Safety Committee in line with the Council's Health and Safety Policy.

### **4. THE REPORT**

- 4.1 Fife Council has been fined £24,000 after pleading guilty to breaching Sections 2 and 3 of the Health and Safety at Work etc. Act 1974 after workers struck and ruptured an underground gas pipe releasing almost four tonnes of gas.

Dunfermline Sheriff Court heard that although there were no casualties as a result of the incident, members of the public were put at risk of injury or death and one hundred homes and businesses, as well as a primary school, were evacuated following the incident.

The court was told that drainage works were being carried out at the depot by the council's own employees. The employees, who were not supervised, decided to excavate a new trench unaware a decision had been taken the day before not to dig in that particular area. During the excavation, using a hand held power tool and mechanical digger, they exposed and disturbed whinstone dust, which is an indicator of the presence of gas or water pipes. In spite of this, they continued the excavation and the digger struck and ruptured a gas valve on a six-inch pressure main. They immediately evacuated the area and reported the incident. The emergency services and Scottish Gas Networks were called to the scene and all properties in the area evacuated for five hours while the damage was repaired.

An investigation by the Health and Safety Executive (HSE) revealed various failings by the council including:

- failure to assess the risks to members of the public near the depot;
- failure to provide and maintain a safe system of work for the excavation, which included failing to refer to utility plans showing the location of underground services and failing to use devices or hand tools to locate underground services;
- failure to provide the necessary information, instruction and supervision to the excavation works to ensure the health and safety of nearby members of the public.

4.2 Free-standing walls at several primary, secondary, special and nursery schools and local authority owned leisure and community centres in Edinburgh have been cordoned off and one demolished following the collapse of a free-standing wall in the changing room area of a high school in Edinburgh that caused fatal injuries to a 12 year old pupil. Council officials have indicated that free-standing walls at several other schools could also be demolished despite no concerns being identified with their structure. Some of the free-standing walls support hand washing basins.

The collapse came just a few days after City of Edinburgh Council was fined after another schoolgirl was seriously injured when she fell more than five metres as teachers attempted to free her from a broken down lift. The pupil, then aged 15, sustained three fractured vertebrae, bruising over her lower back and a sprained wrist as a result of the incident in December 2011. The pupil remained in hospital for two days before being discharged and was unable to return to school for a further two weeks.

The incident was investigated by the Health and Safety Executive (HSE) and a prosecution brought against the council for serious safety failings. Edinburgh Sheriff Court heard that the pupil was in the lift with three other pupils when it stuck between the first and second floors. She called the school's office from her mobile phone and teachers quickly arrived and told the pupils to remain calm as they tried to effect a rescue.

Rather than use the emergency call button in the lift or call the fire service, teachers and the school janitor decided to fetch the lift key, open the doors and attempt to get the pupils out themselves. After opening the lift shaft doors on the first floor, staff could see that the bottom third of the lift car was visible at the top of the door opening. They forced open the lift car doors and spoke with the pupils who were trapped within.

One boy was helped to lower himself safely out of the lift down to the first floor corridor. Miss Seaton then manoeuvred herself out of the lift on her stomach until she was suspended feet first out of the opening. One of the teachers stood behind her as she attempted to drop to the floor but instead she fell through the gap between the bottom of the lift and the floor and into the lift shaft where she fell over five metres to the basement.

After her return to school the pupil continued to suffer pain and discomfort in her back for several months and needed regular physiotherapy and medication.

The court was told the fire service had found on arrival that power to the lift had not been isolated and the car could have resumed moving at any time during the pupils' ordeal or as the schoolgirl lay injured in the basement waiting for help to arrive.

The HSE found that City of Edinburgh Council failed to ensure that staff at Liberton High School had been given sufficient instructions, information and training to deal with such incidents, and that no suitable risk assessment had been undertaken. The Council was subsequently fined £8,000 after pleading guilty to breaching Section 3 of the Health and Safety at Work etc. Act 1974.

- 4.3 Cornwall Council and the father and son partners of a local building company have been prosecuted after the son was seriously injured by falling between 3 and 5 metres through a fragile asbestos roof of a cow shed, breaking his pelvis.

The injured worker was himself prosecuted alongside his father for failing to ensure sufficient measures were in place to prevent the fall. Cornwall Council, who owned the farm, was also convicted following an investigation by the Health and Safety Executive (HSE).

Truro Magistrates today heard that three men, including the injured person, were replacing the roof of the cow shed. The injured person was also overseeing the work but he fell through an asbestos cement tiles onto the concrete floor below, narrowly avoiding some metal rails.

HSE's investigation found that none of the workers employed for the job, or anyone else working for the family building company had any roofing qualifications. There was also no risk assessment for the job, and no safety measures in place that could have reduced the risk or mitigated the effects of a fall. In addition, the workers – one just 17-years-old – were untrained and inexperienced in working at height.

The court was told that although the council was aware the roof was fragile and the work was a high risk activity, it contracted the building firm for the job, even though they were general builders and not a roofing specialist.

Cornwall Council was fined £6,000 and ordered to pay £7,698 in costs after pleading guilty to breaching Section 3(1) of the Health and Safety at Work etc. Act 1974 for failing to ensure, so far as reasonably practicable, that persons not in its employment were not exposed to risks to their health or safety.

The father was fined £6,000 with £7,782 costs, and the son (the injured person) was also fined £2,000 and ordered to pay £3,000 costs.

- 4.4 Glasgow City Council has been fined £20,000 following the death of a 71- year old pensioner after he was struck by a reversing refuse vehicle in the city centre.

The retired dock worker was walking across a road when he was struck by the reversing lorry. He suffered severe chest and pelvic injuries and later died in hospital.

The incident was investigated by the Health and Safety Executive (HSE) and a prosecution brought against the council for serious safety failings.

Glasgow Sheriff Court heard that the council carried out its own commercial glass collection. As the reversing of refuse collection vehicles is a hazardous activity, the council had introduced a program of reversing assistant training between March and December 2011. A reversing assistant's role is to stand outside the vehicle and guide the driver in situations where reversing manoeuvres cannot be avoided.

The driver of the vehicle on the date of the incident was employed through an agency, rather than as a direct employee of the council, and had worked on the glass collection vehicle since March 2012. A labourer employed by the council travelled with the driver, getting out at stops to empty the glass bins.

However, neither the driver nor the labourer involved in this incident had undergone reversing assistant training. The council had failed to ensure that agency workers received the training and had also failed to identify that its own employee had not received the training.

The court was told that on the date of the incident, at around 11am, the driver reversed the lorry from Wellington Street, into and along Holm Street.

Several cars were parked in the street at the time. The driver checked his mirrors, turned on the vehicle's flashing beacon and reversing siren, and reversed down the street while his colleague sat in the passenger seat.

At this time the pensioner walked out between some parked cars to cross the road. However, neither the driver nor his colleague saw him leaving the pavement. He was struck by the lorry, fell underneath the vehicle and was dragged some way along the road as the driver continued to reverse, unaware of what had happened.

The driver only saw the pensioner lying in the road when he stopped the vehicle and got out of his cab. The pensioner was taken to hospital but later died as a result of his injuries.

An inspection of the vehicle by HSE mechanical specialists found no defects, and its warning beacon and siren were working correctly. However, there was a blind spot, around 2.2 metres wide, that was not covered by the CCTV camera or wing mirrors. Accordingly neither the driver nor the labourer would have seen Mr McCulloch stepping into the path of the reversing lorry. A reversing assistant should have been used to guide the driver while reversing and to prevent pedestrians from being able to cross the road as the lorry reversed.

Glasgow City Council was fined £20,000 after pleading guilty to breaching Section 3(1) of the Health and Safety at Work etc. Act 1974.

- 4.5 A Bolton charity has been prosecuted for safety failings after a nine-year-old boy with autism lost a finger when his left hand became trapped in a school door. The HSE found the organisation had failed to make sure all of the doors at its new special needs school were fitted with finger guards.

Trafford Magistrates' Court heard that the child, who also has learning difficulties, trapped his hand in the hinge of the door when he went into the 'quiet room' during his first few days in the new school building. He lost all of his index finger as a result of the incident.

The court was told that the charity had identified the need for finger guards during the construction of its new school building. However, the organisation failed to make sure the guards had been fitted before the new building opened to pupils in September 2012, and several doors were found to have missing guards. It received a conditional discharge and ordered to pay £898 in prosecution costs after admitting a breach of the Health and Safety at Work etc. Act 1974.

- 4.6 Salford City Council has been fined £20,000 after a six-year-old pupil of a special educational needs primary school with autism and learning difficulties lost the tips of three fingers when his hand was trapped in a school gate.

The council was prosecuted by the HSE after an investigation found the council had failed to act on a report produced in April 2004 which identified the risk of children trapping their fingers in the outside gates. Action was only taken after the incident in 2012, when guards were fitted to 22 gates at the school.

Manchester Crown Court heard there was an eight centimetre gap on the side of the gate when it was shut, but the gap was reduced to zero when the gate was pushed open, creating a guillotine effect.

On the day of the incident, staff had opened the gate to allow ten children into the playground for their lunchtime break. However, the boy's left hand became trapped in the gate's hinges at some point when the children were walking through, and his fingertips were severed. He lost the tips of three fingers, with his middle finger cut off up to the first knuckle.

Parts of his fingers were recovered and hospital staff managed to reattach two of them, but he now has reduced use of his hand and amputation injuries.

The court was told that the risk assessment in place at the time of the incident advised staff to be vigilant and supervise children through the gates, but guards could have been fitted at little cost. This would have prevented children from putting their fingers in the gap by the hinges.

Salford City Council was fined £20,000 and ordered to pay £3,632 in prosecution costs after pleading guilty to a breach of the Health and Safety at Work etc Act 1974.

4.7 No new health and safety legislation came into force on the 'common commencement date' of 6th April 2014.

## **5. EQUALITIES IMPLICATIONS**

5.1 There are no equalities implications.

## **6. FINANCIAL IMPLICATIONS**

6.1 There are no financial implications.

## **7. PERSONNEL IMPLICATIONS**

7.1 There are no personnel implications.

## **8. CONSULTATIONS**

8.1 All comments from consultees have been included in the report.

## **9. RECOMMENDATIONS**

9.1 That the contents of the report be noted

## **10. REASONS FOR THE RECOMMENDATIONS**

10.1 For information only.

## **11. STATUTORY POWER**

11.1 Not applicable to this report.

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