



## **CORPORATE HEALTH AND SAFETY COMMITTEE - 1ST MARCH 2017**

**SUBJECT: RECENT HSE UPDATES**

**REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES**

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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 Thanet District Council in Kent has been fined £250,000 and ordered to pay £18,325 costs after one of its employees developed hand-arm vibration syndrome (HAVS).

When the Health and Safety Executive (HSE) investigated it was found that the worker had spent up to six hours a day operating electrically powered equipment, such as mowers and hedge cutters. He was not under any health surveillance and was unaware how to report his symptoms. He was diagnosed after he visited his GP.

Canterbury Crown Court was told that Thanet District Council started to implement appropriate health surveillance after the HSE had served it with an improvement notice. As a consequence, 15 more cases of HAVS were identified and reported.

The HSE said that Thanet District Council had not taken steps to eliminate or control its workers' exposure to HAVS. It had failed to train them on the risks of vibration exposure caused by power tools, and how to control it.

Thanet District Council pleaded guilty to breaching Regulations 6(2) and 7(1) of the Control of Vibration at Work Regulations for failing to reduce exposure to vibration to as low a level as is reasonably practicable and for failing to place employees under suitable health surveillance, respectively.

- 4.2 Powys County Council been fined £75,000 and ordered to pay costs of £16,000 after a four-year-old boy nearly drowned during a swimming lesson.

The boy was taking part in a mix-age and ability play session at the end of his swimming lessons at Bro Ddyfi Leisure Centre when he got into difficulty. The lifeguard had left his station to put out lane ropes for the next lesson, instructors were engaged in other tasks (completing forms) or in conversation with each other or parents.

Swansea Crown Court heard how the boy's father discovered his son floating face down in the water when he came to pick him up from the lesson. He was pulled from the water and revived at the side of the pool, although deprived of oxygen, he later made a full recovery in hospital.

An investigation by the Health and Safety Executive found that Powys County Council had failed to properly risk assess the swimming lessons, and in particular that part of the lesson where mixed abilities and ages were allowed to take part in free play. They did not define the position or roles of the staff to supervise free play, failed to deal with the distraction caused by parents coming onto the pool side at the end of lessons and during free play, and failed to give adequate time or resource between sessions to reconfigure the pool lane ropes (each session began and finished on the half hour).

Powys County Council pleaded guilty to breaching the Health and Safety at Work etc Act 1974, section 3(1) and regulation 3 of the Management of Health and Safety at Work Regulations 1999.

- 4.3 There has been a six-fold increase in fines of £1m or more for accidents and near-misses at work since the new sentencing guidelines were introduced in England and Wales.

The 20 largest fines imposed on businesses for safety and health offences last year totalled £38.6m, compared with £13.5m in 2015 and £4.3m in 2014, according to figures obtained by Institution of Occupational Safety and Health (IOSH) and law firm Osborne Clarke following a Freedom of Information Act request.

Since 1 February 2016, when the Sentencing Council's Definitive Guideline for Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences came in to force, there have been 19 fines of £1m or more. In 2015 there were just three fines that exceeded £1m and in 2014 there were none.

Not all fines in the 2016 top 20 involved a fatality. The guidelines state that a large fine can also be handed down in the event of an injury, or if there was a substantial risk of injury or death.

For example, Alton Towers amusement park operator Merlin Entertainments was fined £5m – the highest financial penalty of 2016 and the UK's third largest safety fine – following a crash on its Smiler rollercoaster on 2 June 2015. No one died but 16 people were injured, five of them seriously. And film production company Foodles Production was ordered to pay £1.6m for safety breaches after Hollywood star Harrison Ford sustained a broken leg and dislocated ankle when he was crushed by a hydraulic door. The accident, which the Health and Safety Executive said could have resulted in more serious injury or even death, happened on 12 June 2014 while the actor was filming "*Star Wars: The Force Awakens*".

Most fines imposed by courts in 2016 related to safety and health offences which took place before the guidelines were introduced.

- 4.4 Local authorities (LAs) in England have paid out £10m in compensation to people who have contracted asbestos-related illnesses at school. An investigation by the BBC has found that in the past ten years 32 councils in England have settled claims from 220 retired teachers, school staff and ex-pupils.

According to figures released following a Freedom of Information (FOI) request, asbestos-containing materials (ACMs) are present in at least 12,600 council-run schools. This number does not include more than 5000 academy schools, so the total is likely to be higher.

The BBC also found inconsistencies in how councils monitor the presence of ACMs; of the 135 LAs that responded to the FOI request, 13 revealed they had no data on which of the local schools contained asbestos.

East Sussex County Council paid out almost £1.3m in asbestos claims between 2006 and 2016, followed by Kent (£842,958), Devon (£791,046), and Suffolk (£635,791). Bradford, Durham and Gloucestershire were also in the top ten.

The BBC said it is likely the compensation claims exceeded £10m because ten councils did not disclose information about how many asbestos cases they had settled.

Between 2011 and 2016, LAs reported 99 incidents of asbestos exposure in school premises.

- 4.5 The Health and Safety Executive (HSE) has announced that it is to consult on proposals to make its cost recovery scheme dispute process fully independent.

The scheme, Fee for Intervention (FFI) was introduced in October 2012 to shift the cost of regulating workplace health and safety from the public purse to businesses which break the law and ensures the cost burden of HSE intervention is picked up by those companies and not taxpayers.

If an inspector identifies serious health and safety failings in the workplace about which they need to write to the dutyholder, then that dutyholder has to pay the costs of the HSE visit. If the inspector simply issues verbal advice there is no charge. If there is disagreement on HSE's decision the dutyholder can dispute it.

Until now, disputes were considered by a panel which consisted of two members from HSE and one independent person. However, after reviewing the current process HSE will consult with relevant stakeholders with a view to making the process fully independent.

A full guide to the Fee for Intervention scheme is available on HSE's website at <http://www.hse.gov.uk/fee-for-intervention>

- 4.6 The number of workers with work-related illnesses rose from 1.2 million to 1.3 million employees in the 12 months to 31 March 2016, according to the Health and Safety Executive (HSE). Around 80% of these illnesses were musculoskeletal disorders (MSDs) or stress, depression or anxiety.

The number of new cases of illness reported during the 12 months was 500,000, equal to the previous period. Some 30.4 million working days were lost to injury or ill health in 2015-16: 25.9 million days due to work-related illness and 4.5 million days due to workplace injury. This is up from 27.3 million in the previous 12 months is the highest since 2007-08.

These figures are drawn from the government's quarterly Labour Force Survey (LFS) and make up part of the HSE's Health and Safety Statistics: 2015/16 annual release on work-related injury, ill-health, enforcement and costs.

Over two-fifths (539,000) of the 1,311,000 workers with work-related illnesses had MSDs. The number of new cases of work-related MSDs in 2015-16 was 176,000. The incidence rate of 550 cases per 100,000 workers is not significantly different from the previous year and has been mainly static for the last five years.

A further 488,000 workers were suffering from work-related stress, depression or anxiety, a prevalence rate of 1,510 per 100,000. The number of new cases was 224,000, an incidence rate of 690 per 100,000 workers. The number and rate have been broadly flat for more than ten years.

The main factors cited by LFS respondents as causing work-related stress, depression or anxiety were workload pressures, including tight deadlines, too much responsibility and not enough support from managers. The HSE found stress was more widespread in public service industries, such as education, health and social care, and public administration and defence.

Stress, depression or anxiety, and MSDs accounted for the majority of days lost due to work-related ill health – 11.7 million and 8.8 million days respectively.

LFS data revealed that an estimated 621,000 self-reported non-fatal injuries occurred in 2015-16 (a rate of 2,030 per 100,000 workers, broadly level over the last five years). Of these accidents, 152,000 resulted in absences that exceeded seven days.

There were 72,702 employee non-fatal injuries reported by employers under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR), down from 76,000 in the previous 12 months.

There were 144 fatal workplace injuries in 2015-16 reported to the HSE and local authorities compared with 142 in the previous year. Despite a long-term downward trend in the rate of total injury, the HSE said it is beginning to show signs of levelling off. Over a quarter (26%) of workplace deaths were accounted for by falls from height.

The economic cost of work-related injuries and illnesses in 2014-15, excluding long latency illness such as cancer, was £14.1bn. Work-related illness attributed to £9.3bn of this total (an equivalent of £17,600 per case). Workplace injuries made up the remaining £4.8bn (equivalent to £1.6m per fatal injury and £7,400 for every non-fatal injury). This figure has been broadly level since 2010-11.

- 4.7 The Health and Safety Executive (HSE) has launched a new 'Health and Work Strategy' intended to improve occupational health standards and reduce sickness absence in UK organisations.

The strategy has three main themes: work-related stress, musculoskeletal disorders (MSDs) and lung disease. Speaking at the Strategy launch event in central London, the HSE's Chair, Martin Temple said that stress and MSDs account for 80% of working time lost to sickness in the UK, while lung disease is responsible for around 90% of work-related deaths.

The new initiative marks a renewed focus on work related stress and musculoskeletal issues for the HSE, which largely withdrew in 2008 from involvement in health issues it said were as easily influenced by employees' home lives as by their working conditions.

The strategy will be underpinned by sector plans for 19 industrial areas, based on industry type and risk profile. The sectors include broad industries such as manufacturing, construction and waste and recycling but also more narrowly defined activities including bioengineering, explosives, fairgrounds and theme parks, onshore oil and gas wells and offshore energy.

The plans are still subject to consultation with industry online and at events to be held in early 2017. The drafts identify the top three strategic priorities for each sector for the next three to five years and the actions the HSE proposes to take to improve health in these areas in the sector.

The regulator's strategy is separate from the safety and health strategy 'Helping Great Britain Work Well', issued in February 2016, which the HSE said sets goals for all stakeholders, including business and industry bodies to help achieve.

## **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.

Author: Andrew Wigley, Senior Health and Safety Officer, [wiglea@caerphilly.gov.uk](mailto:wiglea@caerphilly.gov.uk)  
Consultees: Donna Jones, Service Manager, Health, Safety and Welfare,  
[jonesd7@caerphilly.gov.uk](mailto:jonesd7@caerphilly.gov.uk)