



CORPORATE HEALTH AND SAFETY COMMITTEE - 20TH NOVEMBER 2017

SUBJECT: RECENT HSE UPDATES

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES

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 Wrexham County Borough Council has been fined after a 57-year old man was diagnosed with Hand Arm Vibration Syndrome (HAVS).

Mold Magistrates' Court heard how the employee of the council's StreetScene department had been diagnosed with HAVS in September 2015.

An investigation by the Health and Safety Executive (HSE) found the council failed to address the issue of HAVS following an audit in February 2011 which identified a failure to assess the risk to employees from vibration. The council had developed a number of policies dating back to 2004 to tackle the risk of HAVS, however it was found these policies were not implemented.

Following the introduction of HAVS occupational health surveillance for users of vibrating tools a further eleven diagnoses of HAVS or Carpal tunnel syndrome have been reported.

Wrexham County Borough Council pleaded guilty to breaching Section 2 (1) of the Health and Safety at Work Act 1974, fined £150,000 and ordered to pay costs of £10,901.35.

- 4.2 Western Isles Council, Comhairle nan Eilean Siar (CNES), has been fined after a 54-year old man who receives 24-hour support from its care service suffered serious burns.

Stornoway Sherriff Court heard how the service user had learning difficulties and received a 24-hour support service from CNES. On 4 May 2016, he suffered serious burns to his body while bathing.

An investigation by the Health and Safety Executive (HSE) found CNES failed to adequately manage the scalding risk, despite being made aware of it in the six months previous through their own risk assessment of the service user.

The HSE investigation also found that CNES employees had received no training in managing the risks of scalding including how to run the bath or check the temperature. Staff had also not been provided with thermometers for this purpose.

Western Isles Council of Stornoway pleaded guilty to breaching Section 3 (1) of the Health and Safety at Work Act 1974, and has been fined £8,000 and ordered to pay a compensation order of £2,000 to Mr MacLennan.

- 4.3 An independent report by an architect into how nine tonnes of masonry fell from an external wall of a primary school in Edinburgh has made clear that there was a lack of proper scrutiny and supervision by City of Edinburgh Council and the Edinburgh Schools Partnership that allowed mistakes to be made.

The 250-page report examined exactly what caused the buildings to be unsafe, and concluded that it was just "a matter of timing and luck" that no children were killed or injured. There were not enough wall ties, or they were the wrong type, and the wall cavities were not uniform. The faults caused the wall at Oxfords Primary School to collapse and they were also apparent at the 16 other schools that were declared unsafe. The report also makes clear there was a lack of scrutiny and supervision that allowed those mistakes to be made.

The Scottish Parliament Education Committee has now recommended that every public body in Scotland should examine the details of the architect's report, and review their own estates in light of his findings and Scottish ministers should share it with Westminster counterparts to spread the findings UK-wide.

It says the finger of blame is not pointed at one rogue builder because the work was done by multiple companies and bricklaying squads.

A total of 17 schools across the city were ultimately forced to close amid concerns over building standards.

- 4.4 Disputed invoices raised under the fee for intervention (FFI) cost recovery scheme will now be considered by a fully independent panel, the Health and Safety Executive (HSE) has confirmed.

All disputes will now be considered by a lawyer – acting as chair – and two others who have practical experience of management of health and safety.

The HSE made the change on 1st September 2017 following a six week public consultation. Previously, disputes were considered by a panel with two HSE members and one independent.

Details about how the HSE's Fee for Intervention operates can be found online at: www.hse.gov.uk/fee-for-intervention

4.5 Following a recent fatal accident investigation, The Health and Safety Executive (HSE) is strongly advising all duty holders and users of combination ladders to ensure that they:

- carry out pre-use checks;
- use them in accordance with instructions;
- check the locking mechanism(s).

Failure to do so could result in serious accidents.

Additionally an investigation by Trading Standards has found significant numbers of substandard telescopic ladders that are being made available on the UK market. These are often low cost products that are attractive and are imported from outside the EU. Some of these have been implicated in serious accidents, including fatalities. The relevant European Standard – BS EN 131-6:2015 – provides more information on the design requirements.

The use of telescopic ladders is growing more popular due to their ease of storage and convenience; however, there are numerous issues with many of these products due to the number of components involved and their construction. Namely:

- they are often rated for a lower load (person, tools and materials);
- the stiles are prone to greater bending;
- they are prone to greater bending of the frame.

The issues are likely to increase with the height of the ladder.

Duty holders and users should ensure that:

- pre-use checks on the ladders are thorough, checking the components and operation of each and every locking mechanism (often one or two per rung) and the associated release mechanism(s);
- the ladders are stored well, transported carefully and maintained (including cleaning) as dirt and grit etc. can affect locking mechanisms;
- they understand the limitations and likely performance of their ladder, e.g. strength, bending etc.

Trading Standards are aware of the substandard products and have been taking action, e.g. http://www.derbyshire.gov.uk/council/news_events/news-updates/2017/march/news_items/warning_after_safety_tests_lead_to_over_32000_telescopic_ladders_being_withdrawn_from_sale.asp

4.6 The Central London County Court ruled on 13th October 2017 that a National Health Service (NHS) Trust does not have to compensate an employee for injuries sustained when her colleague pulled away her chair as a joke, as her co-worker's "act of folly" was outside the scope of his work.

The Court heard that an NHS employee claimed £58,000 compensation from Homerton University Hospital NHS Foundation Trust after she sustained damage to her lower spine and coccyx when her colleague deliberately pulled her chair away as she sat down. The employee claimed the NHS trust was indirectly liable for her colleague's "act of folly".

The judge cleared the Trust of any wrongdoing and ruled that the employee that pulled the chair away was "acting in a purely private capacity, unconnected with his work".

The ruling follows a similar judgment, handed down in the Court of Appeal in February 2015, in which an employer was successful in avoiding a finding of vicarious liability. In that case, the claimant failed to convince the court that his co-worker's act of negligence had occurred in the "course of employment".

- 4.7 The Health and Safety Executive has introduced a 'Go Home Heathy' campaign that primarily targets work-related stress, lung diseases (particularly long latency conditions) and musculoskeletal disorders.

This new focus on health issues includes a drive to promote awareness and understanding of these topics and how they fit into the HSE's future plans.

Further information is available from the campaign website:
www.hse.gov.uk/gohomehealthy

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 This report contributes to the Well-being Goals as set out in Links to Strategy above. It is consistent with the five ways of working as defined within the sustainable development principle in the Act in that we will seek to ensure that HSE updates and best practise are considered and where appropriate incorporated into policies and working arrangements. This will assist to best protect as far as is reasonably practicable the health and safety of our employees, residents, service users and visitors and ensure that the Council as a public body and social landlord meets its regulatory duties and corporate objectives.

6. EQUALITIES IMPLICATIONS

- 6.1 There are no equalities implications.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications.

8. PERSONNEL IMPLICATIONS

- 8.1 There are no personnel implications.

9. CONSULTATIONS

- 9.1 All comments from consultees have been included in the report.

10. RECOMMENDATIONS

- 10.1 That the contents of the report be noted.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 For information only.

12. STATUTORY POWER

- 12.1 Not applicable to this report.

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