



CORPORATE HEALTH AND SAFETY COMMITTEE – 24TH JUNE 2019

SUBJECT: RECENT HSE UPDATES

REPORT BY: CORPORATE DIRECTOR - EDUCATION AND CORPORATE SERVICES

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform the Committee about recent relevant accidents, incidents and prosecutions.

2. SUMMARY

- 2.1 The report is provided as information for members of the Committee, to ensure that they are kept informed of any matters that could impact on the management of health and safety within the Council.

3. RECOMMENDATIONS

- 3.1 That the Committee note the contents of the report.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 To keep the Committee up to date on any health and issues that may be relevant or may require further consideration.

5. THE REPORT

5.1 Local authority prosecution - boundary wall collapse

- 5.1.1 Basildon Borough Council has been sentenced after a brick boundary wall it part-owned collapsed and seriously injured a six-year-old girl.

Basildon Crown Court heard how a wall spanning the back of two houses collapsed onto the girl during a family barbecue. She was placed in an induced coma after sustaining serious and life-threatening injuries. She was in intensive care for 7 days and in hospital for 10 days in total. She has made a good recovery but still suffers some physical and emotional problems.

An investigation by the Health and Safety Executive (HSE) found the Council failed to take any action after receiving concerns about the wall's condition from private tenants, two years prior to the incident. Wider concerns about the poor condition of brick walls in the vicinity, including council-owned walls, were not passed to building control or the Council's inspections teams. The Council failed to implement a system of intelligence-led inspection, maintenance and repair, to adequately identify and remedy the risks of collapses to boundary walls, both owned solely by the Council, or jointly with private residents.

Basildon Borough Council pleaded guilty to breaching Section 3(1) of the Health and Safety at Work etc. Act 1974 and fined of £133,333 and ordered to pay costs of £21,419.55.

5.2 Local authority prosecution – worker crushed by refuse vehicle

5.2.1 Pendle Borough Council has been fined after a worker's leg was crushed by a refuse collection vehicle.

Burnley Magistrates' Court heard how, on 30 October 2015, a labourer with Pendle Borough Council, was struck by a large refuse vehicle whilst at work in Nelson, Lancashire. At the time of the incident, three refuse vehicles were in the immediate vicinity. The employee suffered severe crush injuries which resulted in surgery to remove his lower right leg.

An investigation by the HSE found the Council had neglected to properly identify the well-known hazards posed by refuse collection operations. Consequently, the council had failed to devise safe working methods and provide the necessary information and training to their workers to prevent harm arising.

Pendle Borough Council pleaded guilty to breaching Sections 2(1) and 3(1) of the Health and Safety at Work etc act 1974. Total fines of £40,000 were imposed with costs of £14,000.

5.3 HSE fee for intervention rate increase

5.3.1 The HSE has increased its fee for intervention (FFI) hourly rate by 20%, from £129 to £154.

5.3.2 The new charge came into effect on 6 April and it is the second increase since the scheme was introduced in October 2012. The rate first went up in 2016, from £124.

5.3.3 Under the scheme, the HSE only recovers costs of its regulatory work from non-compliant dutyholders found to be in material breach of safety and health law. The fee covers an inspector's time spent identifying and resolving the issue, as well as any investigation or enforcement action up to the point where HSE's intervention has been concluded or a prosecution is started. It is calculated by multiplying the time spent on FFI activity by the hourly rate.

5.3.4 A material breach is defined by the HSE as "*something which an inspector considers serious enough that they need to formally write to the business requiring action to be taken*". Where an inspector simply gives advice, either verbal or written, there is no FFI.

5.4 Conclusion

Health and Safety remains a key priority for Local Authority consideration. Although the HSE are less pro-active than previously, they will investigate and prosecute if there are health and safety failings. Ensuring that health and safety is considered and risks assessed and controlled, assists the Authority in meeting its legal obligations, in protecting the health and safety of employees and others.

6. ASSUMPTIONS

6.1 No assumptions have been made regarding the information contained in this report.

7. LINKS TO RELEVANT COUNCIL POLICIES

7.1 This report links to the Corporate Health and Safety policy and other CCBC Health and Safety Policies e.g. Asbestos, Fire, Lone Working.

7.2 Corporate Plan 2018-2023

The report content contributes towards or impacts the Corporate Well-being Objectives:

Objective 1 - Improve education opportunities for all. Through ensuring that case law and relevant Health & Safety updates are communicated. This allows relevant information to be included in CCBC H&S Training which is afforded to employees and other across the borough.

Objective 2 - Enabling employment. Through provision of up to date H&S information which assists CCBC in ensuring that CCBC employees and others affected by our work activities are kept safe and healthy and able to remain in employment.

Objective 5 - Creating a County Borough that supports a healthy lifestyle in accordance with the sustainable Development Principle within the Wellbeing of Future Generations (Wales) Act 2015. Through ensuring that any relevant information on health risks associated with work is communicated allowing the risks to be assessed, controlled and managed and ensuring that Health & Safety policies and practises support good health and well-being.

Objective 6 - Support citizens to remain independent and improve their well-being. Through ensuring that relevant health and safety information is communication and can considered. This assists in ensuring that our health and safety policies and practises can be reviewed and updated as appropriate and continue to promote good health and well-being.

8. WELL-BEING OF FUTURE GENERATIONS

8.1 This report contributes to the Well-being Goals as set out in the Well-being of Future Generations (Wales) Act:-

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales

It is also consistent with the five ways of working as defined within the sustainable development principle in the Act in that we will seek to consider the long-term impact of Health & Safety policies and practices, prevent any ongoing issues and ensure that Health & Safety is integrated into good management. We will also ensure there is effective collaboration and involvement as required in order to meet our legal Health & Safety objectives in line with the act. This will assist in safeguarding 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.

9. EQUALITIES IMPLICATIONS

9.1 There are no equalities implications.

10. FINANCIAL IMPLICATIONS

10.1 There are no financial implications.

11. PERSONNEL IMPLICATIONS

11.1 There are no personnel implications.

12. CONSULTATIONS

- 12.1 If any consultee expresses views which differ from the recommendations, the author must include them in this section and as part of the main body of the report state whether the author is of the view that they have been addressed satisfactorily in the report, whether they can/should be incorporated in the recommendation and if not incorporated into the recommendation then why not.

13. STATUTORY POWER

- 13.1 The Health and Safety at Work etc. Act 1974 and Management of Health and Safety at Work Regulations 1999.

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