



Update from adams-payne safety

'adams-payne safety' Winter 2003 Newsletter

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A WORD FROM TONY PAYNE

Are Accountants good with their own finances I wonder?

Do builders have these amazing houses where everything is in tip-top condition and all those little jobs are well in hand? The reason I ask is that as 'adams-payne safety' continues to grow, the question of our own health and safety systems and policies begins to nag away at us. Yes, we do have a Health & Safety Policy & Risk Assessments, but I must admit that it is a struggle to keep them relevant and up-to-date. I particularly noticed recent prosecutions where, although Companies' had a good range of risk assessments in place, they had failed in their duty to carry them out for the 'one-off' or transient jobs that occasionally come about. We all risk assess everyday – as soon as we get up in the mornings in fact – and that is how we stay in one piece in what can be a dangerous world. It therefore follows that in the workplace, for those one-offs' such as moving a gantry or mending the roof, we should also consider the risks involved and do that assessment. This needs to be documented if there are five or more employees (it's good practice even if you don't have that number) and in any event, communicated to those who might be affected. It doesn't always work out – as in the recent case of the death of a policeman who was stabbed during a raid on a house suspected to contain terrorists and weapons. The assessment had unfortunately failed to identify the high risk to those involved in the raid and had determined that there was no need for armed police to be involved. We may not always get it right but we are obliged by law to at least try. **TP**

ASBESTOS

In December 2002, the HSE issued a new Approved Code of Practice (ACoP) setting out the steps that employers should take to manage asbestos in premises as set out in the Control of Asbestos at Work 2002 (CAW) Regulations.

The Executive has also launched a new management guidance booklet – "A comprehensive guide to managing asbestos in premises" – that provides employers with further information on the CAW Regulations, which became law on 21 November 2002. In addition, December saw the publication of two revised ACoPs on work with asbestos that does not normally require a licence, and work with asbestos insulation, coating and insulating board, as well as a revised version of the HSE's free guidance leaflet, "A short guide to managing asbestos in premises". Under the new duty to manage – which comes into force on the 21 May 2004 after an 18-month lead-in period – employers and those responsible for workplace buildings will have a specific legal duty to identify if any asbestos is present, or is liable to be present. The regulations also require employers to:

- Keep an up-to-date written record of the location of any asbestos materials;
- Assume that all materials contain asbestos unless there is evidence that they do not;
- Monitor the condition of asbestos to ensure that it is not deteriorating;
- Prepare and implement a management plan to control these risks and ensure that information about the location and condition of any asbestos is provided to any person who is liable to disturb it.
- Copies of "The management of asbestos in non-domestic premises. Regulation 4 of the CAW regulations 2002". Approved Code of Practice, L127, ISBN 0-7176-2382-3, price £9.50; "A comprehensive guide to managing asbestos in premises", HSG227, ISBN 0-7176-2381-5, price £9.50; "A short guide to managing asbestos in premises", INDG223, ISBN 0-7176-2092-1, single copies free; "Work with asbestos which does not normally require a licence. Control of Asbestos at Work Regulations 2002". Approved Code of Practice, L27, ISBN 0-7176-2562-1, price £9.50; and "Work with asbestos insulation, asbestos coating and asbestos insulating board. Control of Asbestos at Work Regulations 2002". Approved Code of Practice, L28, ISBN 0-7176-2563-X, price £9.50; are all available from HSE Books on (Tel) 01787 881165

LACK OF INSPECTIONS

A car component manufacture was ordered to pay out £11,000 in fines and costs after a court heard how it failed to properly inspect machinery at its factory. The court heard that the majority of the power presses at the factory needed to be inspected by a competent person at least once every six months to identify any defects that might affect their safety.



IN SHORT

REST ROOMS

The workplace (Health Safety and Welfare) regulations 1992 state that an employer must provide suitable and sufficient facilities for rest and to eat meals, and where provided, they must be kept clean and hygienic.

However, where employees have alternatives within a clean environment, these may be deemed to be 'suitable and sufficient'.

Rest rooms and rest areas must include suitable arrangements to protect non-smokers from discomfort caused by tobacco smoke.

PPE PROBLEMS

Refusal to wear PPE should be a disciplinary measure within your company.

As the employer, your company must not allow work to continue in the absence of cooperation and use of PPE, where risk assessment has deemed the use a necessity.

Reference should be made to the Health & Safety At Work Act 1974 sections 7 and 8 (Duty of employees to take reasonable care of themselves and others - also to cooperate with their employer and others insofar as the interests of Health and Safety).

IN SHORT

A kitchen unit manufacturer was fined £6,000

after a court heard how a worker lost parts of three of his fingers when they became trapped in a poorly guarded edge banding machine, which is used to trim sheets of wood that are then attached to the edges of kitchen cabinets.

As he lifted the machines' hood to clear dust, his right hand accidentally came into contact with the machines' blade. The accident happened because the electrical switch on the machines' hood which should have automatically turned off the machine when the hood was opened - was not operating correctly. The company failed to maintain the machine adequately and did not have a system in place for providing staff with training on the correct use of the machine.

The company should have carried out a suitable risk assessment on the machine. This would have shown that the machine should have been taken out of service until the safety switch on the hood had been repaired. It would have also highlighted the need for workers using the machine to be properly trained and for the company to put in place an appropriate system for recording the training given to workers.

The company was fined £6,000 under section 2(1) of the Health and Safety at Work Act and 1974 for failing to ensure the Health and Safety of people in its employment.

A teacher has been charged with manslaughter

and an alleged breach of the Health and Safety at Work Act 1974 after a ten year-old boy drowned on a school trip in the Lake District. The boy was on an outward bound trip to the Lake District when he got into difficulties after jumping into a mountain pool and stream in Cumbria. He was swept away by strong currents in the stream and despite efforts to rescue him, he drowned.

The teacher in charge of the trip has been charged with manslaughter. He also faces a charge under Section 7 of the Health and Safety at Work Act 1974 for allegedly failing to take reasonable care of himself and other people under his care. The next hearing in the case is due to take place at Crown Court in February 2003.

A food wholesaler has been fined £12,000

after an incident in which a worker was injured by a fork-lift truck.

The company pleaded guilty to three charges; a breach of regulation 5 of the Management of Health and Safety at Work Regulations 1999 - failure to control and monitor Health and Safety arrangements; a breach of section 2 of the HSWA 1974 - failure to ensure the Health, Safety and Welfare of an employee; and a breach of section 3 of the HSWA 1974 failure to ensure the Health, Safety and Welfare of non-employees. The court heard that a worker sustained a broken leg when he was hit by a ride-on pallet truck used by another Companies' driver who had not



IN SHORT

SELF-EMPLOYED SUB-CONTRACTORS AND ACCIDENTS WHILE ON YOUR PREMISES:

All work-related incidents should be recorded in your site accident book and where they cause major injury or incapacity from normal duties in excess of three days, they will be reportable under RIDDOR. This may be done by calling the incident Contact Centre on tel: 0845 300 9923.

However, the main obligation to report is that of the self-employed person in his own right.

The safest and most appropriate action for your company is to call the Centre with a back - up report to ensure that the incident has been recorded.

ELECTRICAL SWITCHGEAR GUIDE

The HSE has published a new guidance booklet on the safe use of high and low voltage electrical switchgear. The booklet - aimed at owners and operators of electrical switchgear equipment - provides guidance on how to safely operate and maintain a range of different switchgear models and their components. Copies of 'Keeping electrical switchgear safe', ISBN 0-7176-2359-9 are available price £9.50, from HSE Books.

IN SHORT

A boat builder was fined £30,000

after a court heard how a worker was overcome by toxic fumes.

Prosecuting on behalf of the Health and Safety Executive (HSE), John Cooper told Worcester Crown Court that forty-year-old Laminator Virginia West was working Sealine international Limited factory in Kidderminster, Worcestershire, when the accident happened on 20th November 2001.

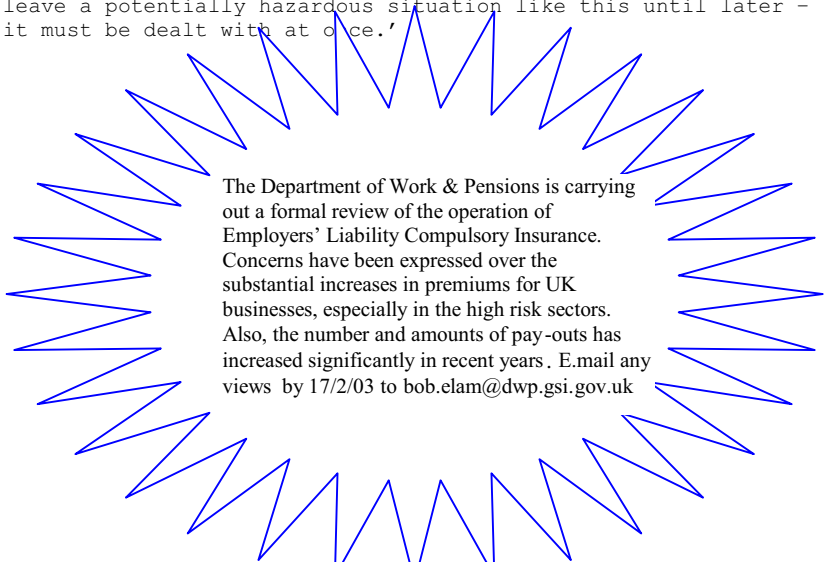
On the day of the accident, a group of seven workers were instructed by their supervisor to clean up a spillage of polyester resin, (which contains a toxic and flammable solvent styrene), that had leaked onto the workshop floor from a storage tank.

The workshop door was opened and the extraction system switched on before the clean-up operation began. However, as the worker was helping to clean up the spill, she was overwhelmed by solvent vapours and fell unconscious.

The accident happened because the company failed to take adequate precautions to prevent employees from inhaling styrene vapour during the clean-up operation. Although the company had carried out a risk assessment on polyester resin spillages it failed to provide employees with any Respiratory Protective Equipment (RPE). The court also heard that although the spill occurred on 16th November 2001, the resin was left on the floor for four days which presented a substantial fire risk.

The Company was duly fined £20,000 under Section 2 (1) of the Health and Safety Act 1974 for failing to ensure the safety of its employees; and £10,000 under regulation 7(1) of the Control of Substances Hazards to Health Regulations 1999 for failing to prevent exposure to substances hazardous to health. It was also ordered to pay prosecution costs of £4,713.69.

Speaking after the case, the HSE inspector was quoted as saying that 'anyone handling significant quantities of hazardous substances needs to have a properly thought out contingency plan in case things go wrong. In particular, firms cannot afford to leave a potentially hazardous situation like this until later - it must be dealt with at once.'



The Department of Work & Pensions is carrying out a formal review of the operation of Employers' Liability Compulsory Insurance. Concerns have been expressed over the substantial increases in premiums for UK businesses, especially in the high risk sectors. Also, the number and amounts of pay-outs has increased significantly in recent years. E.mail any views by 17/2/03 to bob.elam@dwp.gsi.gov.uk



IN SHORT

Pigeon Droppings

Pigeon droppings contain potentially harmful organisms, including bacteria, fungi and parasites, while ammonia in the droppings may irritate the eyes.

Personal protective equipment including eye/face protection, a respirator to prevent inhalation of dust, waterproof gloves, disposable overalls and boots should be provided and worn. During removal the droppings should be sprayed with water to suppress dust and reduce the ammonia content. High pressure water washers should be limited to removing newly deposited droppings or thin residues, after the main bulk has been removed.

The droppings collected should be put into plastic bags which should then be sealed. The droppings are regarded as 'special waste' and you are advised to contact your Local Authority to ensure that you use a waste collector who is registered for the movement and disposal of such waste.

JOBS TO DIE FOR

The HSE has published a new booklet designed to raise awareness of the consequences of taking risks at work. The booklet provides details of workplace accidents and explains the effects these accidents have on the family and friends of those killed. The booklet features seven real-life stories, depicting the negative impact the deaths of loved ones at work has caused. It also includes comments from Investigating Officers detailing how the accidents could have been avoided. Single copies of 'Jobs to die for'. MISC471, are available free from HSE Books.

New COSHH Hierarchy of control

Amended versions of the Control of Substances Hazardous to Health Regulations (COSHH) 2002 and The Control of Lead at Work Regulations (CLAW) 2002 set out a new hierarchy of control measures that employers should follow when their workers' exposure to hazardous substances or lead cannot be prevented by substitution alone. The hierarchy requires employers to control exposure by:

- Using appropriate work processes, systems and engineering controls and providing suitable work equipment and materials;
- controlling exposure to a hazardous substances at source - for example, by introducing adequate ventilation systems and appropriate organisational measures in the workplace; and
- providing suitable personal protective equipment where adequate control of exposure cannot be achieved by other means.

The regulations also set out additional duties for employers - for example, a requirement to draw up detailed procedures for dealing with accidents, incidents and emergencies involving hazardous substances in the workplace - including carrying out regular safety drills and ensuring that only authorised personnel are allowed to enter danger areas in the event of an emergency.

In addition, the COSHH Regulations have been amended to emphasise that they apply to all exposures to biological agents - whether intentional, such as for laboratory workers or incidental - for example, for sewage workers.

A new asthma Approved Code of Practice (ACoP) - in the form of an appendix to the new COSHH Regulations 2002 ACoP - is aimed at helping employers protect their employees from exposure to asthma-causing substances at work.

Although this new ACoP does not place any legal duties on employers, it does provide them with sound practical guidance on controlling exposure to substances that cause the disease - stressing that employers should carry out adequate risk assessments and regular health surveillance to protect the welfare of their workforce.

CARRYING OUT ASSESSMENTS...

In particular, the ACoP sets out a range of factors that must be taken into account by employers when carrying out risk assessment under COSHH and to include:-

- all workers who could potentially be exposed to substances that cause asthma - including those who could be exposed to high levels for a short time, such as maintenance staff;
- any workers who have already developed occupational asthma and may have symptoms at very low levels and may not be easily identified; and
- the Risk Assessment will need to be reviewed if a worker develops asthma that may be caused by exposure to a substance at work.

In addition, the ACoP says that employees should be provided with suitable training and information on the symptoms and health effects of asthma. Finally, the ACoP makes it clear that, if a Risk Assessment identifies that workers could be exposed to a substance that causes work-related asthma, the employer must carry out suitable health surveillance and keep



IN SHORT

METALWORK FLUIDS

The HSE has produced a new guidance pack on the safe use of metalworking fluids.

This pack is aimed at Managers and Supervisors in engineering workshops where staff are at risk of developing skin and respiratory diseases as a result of exposure to machine tool oils and coolants. It contains a guidance booklet for employers on the prevention of exposure to metalworking fluids, and a set of encapsulated task sheets on safe working practices. The pack also features guidance leaflets for employees and a workplace poster.

- Copies of **Working Safely with metalworking fluids pack**, ISBN 0-7176-2561-3, are available; price £17.50, from HSE Books.

...and finally....

The comments, observations, views and advice contained in this newsletter are for general guidance only and are not a substitute for competent expert advice or reference to legal sources in individual cases and circumstances. Advice can be obtained from, amongst others, Insurers and Solicitors, Enforcing Authorities and your own competent person. You should always ensure that you obtain competent

Successfully Prosecuted...

The third annual *Health & Safety Offences and Penalties* report lists the organisations and individuals who were successfully prosecuted by the HSE in 2001/2002. The report also shows that the average fine for a safety prosecution in Great Britain rose from £8,790 in 2000/2001 to £12,194 in 2001/2002 a rise of almost 40 per cent.

Total Level of Fines

According to the report, the total level of fines for health and safety offences in the UK during 2001/2002 reached £10,000,000 - an increase of over £2,000,000 on the previous year - with over 84% of the 1,064 cases prosecuted by the Executive during 2001/2002 resulting in a conviction.

Meanwhile, the report found that the average fine for individual offences increased by a third from £6,226 to £8,284.

Prosecuted Individuals

The report states that the HSE prosecuted individuals on 55 separate charges in 2001/2002, with 40 successful convictions. This included 31 charges against directors, with 23 convictions.

The average level of fines for directors and managers was £3,098 - almost three times greater than last years average of £1,041, but similar to 1998/1999's average figure of £2,963.

- Copies of *Health and Safety Offences and Penalties 2001/2002*, can be viewed on the HSE's web-site at: www.hse.gov.uk/statistics/enforce.htm The HSE's prosecutions database can be found on the Executive's website at: www.hse-databases.co.uk/enforce.htm

Storage of oil

The Control of Pollution (oil storage) Regulations 2001 require the owners of tanks to provide secondary containment provisions such as drip trays or bunds, to contain any unintentional release.

The requirements are that the oil shall be stored in a container which has a sufficient structural integrity to prevent it from bursting or leaking in normal use. The container must be situated within a secondary containment system which must have a capacity of not less than 110% of the containers storage capacity; and positioned so as to minimise any damage by impact where reasonably practicable. The container's base and walls should also be impermeable to water and oil and must not be penetrated by any valve, pipe or other opening used for draining the system.

If you store more than 200 litres of oil above ground you will be affected by these regulations. Oil stored in a container in a building or underground is not covered.

All types of oil including petrol, solvents, mineral oil, heating oil and lubricating and vegetable oil are covered by these regulations. Waste oil is covered by the Waste Management Licensing Regulations 1994. Additional requirements