



# Safetyform Monthly Newsletter - February 2020

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*Welcome to the latest edition of the Safetyform monthly newsletter, bringing you up to date with all the latest construction health & safety news.*

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## In This Issue



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*Are you comfortable with you level of risk*

*What's in the News*

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- *Contractor fined for failing to provide minimum welfare facilities*
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- *Roofing company fined after worker fall*
  - *Sole trader fined after worker injured*
  - *Construction company fined after worker killed during demolition work*
  - *Client and construction company sentenced after failing to control the removal of asbestos*
  - *Haulage company fined after employee fell from height and sustained severe injuries*
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*Are you comfortable with your level of Risk ?*



Managing Health and Safety in any size organisation can be complex and fraught with uncertainty and this can often lead to overly detailed plans that are costly to execute, involve layers of supply chain, with each supplier claiming to deliver compliance and peace of mind.

But are you confident that your plan is proportionate, cost effective and sufficiently controlling risks to your business?

Having been in this exact position and worked with businesses large and small, there are some key but challenging questions we ask:

- Have you recently 'kicked the tyres' on your arrangements/plan?

- Would a fresh, independent view be the smart thing to do at this time?
- What if a supplier's level of competence was not consistently applied once the contract was awarded?
- Are reported compliance figures robust or are they flawed and can I trust them?
- Are you confident that all your arrangements are sensible, required and achieve your aims or do they just tick a box?
- Are you willing to accept poor levels of customer service delivery from safety suppliers that exposes your organisation to risk? We are experienced in helping organisations answer the critical assurance questions faced by all diligent employers. Whether your organisation is BSOHSAS 18001, ISO 45001, working towards it or choosing to adopt your own standards, we can help identify gaps or areas for improvement, whilst remaining independent. Our impartial advice and guidance will help reduce costs, simplify arrangements and help reduce layers of complexity so you can get on with providing a safe, healthy and positive workplace.

The team at Safetyform are more than happy to discuss your needs, please contact [Gavin@safetyform.co.uk](mailto:Gavin@safetyform.co.uk)<sup>1</sup> or 02922 677182

## What's in the News?

### Contractor fined for failing to provide minimum welfare facilities



A principal contractor has been fined after repeatedly failing to provide minimum welfare facilities at a construction site in Burton on Trent.

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Newcastle-under-Lyme Magistrates' Court heard that, for a period up to August 2018, Mr Jevgenijs Sondors of J S Services failed to provide minimum welfare facilities for workers on the site of a residential refurbishment on Shakespeare Road, Burton on Trent, despite being served Improvement Notices to put such facilities in place.

An inspection by the Health and Safety Executive (HSE) found there were no welfare facilities available for workers on the site

for at least four and a half months. The site lacked hot water, a toilet, washing facilities and rest facilities. Following a concern being raised, HSE served two Improvement Notices and a Prohibition Notice on Mr Sondors who was acting as principal contractor for the refurbishment. Mr Sondors then installed a toilet in the property but it was not linked to the water supply. A watering

can had to be used to "flush" the toilet. Water in the property was provided via a single cold water pipe attached to a wall with a bucket underneath. No cleaning or drying facilities were provided. Follow up visits to the site, after the compliance date for the notice expired, found that the necessary improvements had not been made.

Mr Jevgenijs Sondors of St Paul Street West, Burton on Trent was found guilty in his absence of breaching Regulation 13(4)(c) of the Construction (Design and Management) Regulations 2015 and Section 21 of the Health and Safety at Work etc Act 1974. A warrant had been issued for his arrest. Mr Sondors was arrested, taken in to custody and held for 24 hours before appearing before the Magistrates' Court. He was fined £300 and ordered to pay full costs of £3,851.06.

Speaking after the hearing, HSE inspector Katherine Cotton said: "The welfare facilities available for those working at the site fell far below the legally required standard. Construction workers should be provided with a minimum standard of welfare facilities including clean, flushing toilets and cleaning and drying facilities.

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***"Dutyholders should be aware that HSE will hold to account those who do not comply with health and safety legislation, or who do not comply with enforcement notices served on them."***

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## Roofing company fined after worker fall



A roofing company has been fined after a worker suffered serious back injuries when he fell from a ladder whilst transporting a bucket full of broken tiles. An investigation by the Health and Safety Executive found the contractor had not provided basic lifting aids, such as a wheel and pulley, which would have eliminated this risk. Folkestone Magistrates' Court heard that on 2 October 2018, AU Roofing and Building Ltd workers were working on a roof in Elmes Avenue, Ramsgate, Kent where they were required to carry buckets of materials by hand down the scaffold access ladder. Davey Battams, aged 31, was unable to maintain a constant three points of contact with the ladder, resulting in the fall.

AU Roofing and Building Services Ltd of Canterbury Road East, Ramsgate, Kent pleaded guilty to breaching Section 2(1) of the Health and Safety at Work Etc. Act 1974. The company has been fined £28,800.00 and ordered to pay costs of £4,213.70. After the hearing, HSE inspector Andrew Cousins commented: "This incident could have been so easily avoided by simply providing basic and inexpensive lifting aids, which are industry standard."

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*"Companies should be aware that HSE will not hesitate to take appropriate enforcement action against those who fall below the required standards."*

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## Sole trader fined after worker injured



Duffy Skylining has been fined following an incident when a worker suffered serious injuries after being struck by a tree.

Fort William Sheriff Court heard that on 4 February 2016, Malcolm Duffy and three employees were felling trees on land adjacent to the A82 north of Fort William, contracted by the Forestry Commission. While dealing with a taller tree, around eight metres in height, Mr Duffy made preparatory cuts and then checked with the rest of the team to ensure they were in a safe place. Mr Duffy thought his colleagues understood that he was about to fell the tree. After the initial cut was made, Mr Duffy made his felling cut at the same time as Mr Strachan dragged a large branch from the brush pile into the path of the felling tree. The tree struck him on the left side of his helmet and left shoulder.

An investigation by the Health and Safety Executive (HSE) found that the exclusion zone normally used, which requires that no one would be positioned within two tree lengths of a tree being felled, was not adhered to on this occasion. Had there been a clearly defined system of communication, it would have prevented the misunderstanding where Mr Duffy thought that workers appreciated the tree was about to be felled. That particular tree being taller, steps should have immediately been taken to identify and enforce a wider exclusion zone, preventing any person from entering within two tree lengths of that tree.

Malcolm Duffy, trading as Duffy Skylining of Commerce House, South Street, Elgin, Moray pleaded guilty to breaching Sections 2 and Section 33 (1) (a) of the Health and Safety at Work Act etc 1974 and was fined £8,000.

After the hearing, HSE inspector, Penny Falconer said: "Those in control of work have a responsibility to devise safe methods of working and to provide the necessary information, instruction and training to their workers in the safe system of working."

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*“If a suitable safe system of work had been in place prior to the incident, the life changing injuries sustained by the employee could have been prevented.”*

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## Construction company fined after worker killed during demolition work



A construction company was fined half a million pounds after a father-of-two was killed when a reinforced concrete slab collapsed underneath him during a demolition project.

Southwark Crown Court heard that on 14 April 2014, 33-year-old labourer Dainius Rupsys from Lithuania was working with an excavator operator at the site on Grosvenor Square in London, as part of the operation to demolish the existing multi-storey building before 31 residential flats could be built.

Mr Rupsys had been burning through reinforcing steel bars with an oxy-propane lance to assist the excavator operator's efforts to remove part of the reinforced concrete slab. Another worker had alerted the supervisor that their work had made the structure unsafe and the demolition was halted. However, the supervisor then ordered the removal of props supporting the remaining slab and less than ten minutes later it collapsed. The Court heard that the 360 excavator may have moved back onto the slab after the props were removed.

Mr Rupsys, the 360 excavator and its operator in the cab all fell with the slab. Mr Rupsys suffered severe head injuries and died at the scene, while the excavator operator injured his back.

An investigation by the Health and Safety Executive (HSE) found that in the weeks before the incident CCTV from overhead cameras showed demolition work had been carried out unsafely, that Mr Rupsys was not adequately trained to use the oxy-propane lance and that he had no training on using the safety harness, which was not attached when the incident occurred.

McGee Group Limited (McGee) of Athlon Road, Wembley, Middlesex, who was the principal contractor for the project, pleaded guilty to a breach of Regulation 22(1)(a) of the Construction (Design and Management) Regulations 2007. The company was fined £500,000 with £66,236.22 in costs.

HSE inspector Andrew Verrall-Withers commented after the hearing:

“In the weeks prior to this tragic incident workers were regularly put at an acute risk of falling. This is a case of a company wanting to have good systems to protect the workers, but not paying enough attention to what was actually happening at the site.

“This young man’s death could have been prevented. Mr Rupsys should not have been allowed to operate an oxy propane lance. Employers have a duty to check workers have sufficient skills, knowledge, experience and training before they allow them to use equipment.”

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*“Appropriate supervision of the work by the company would also have prevented this unsafe system of work from being adopted.”*

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## Client and construction company sentenced after failing to control the removal of asbestos



Property owner Michael Cutmore and building contractors B and S BM Limited have both been sentenced after a refurbishment project of an old hotel was found to contain asbestos containing materials (ACMs) on site while work was still taking place.

Truro Crown Court heard that during September 2017 a property in Island Crescent, Newquay was to be partially demolished and refurbished under the control of one of its owners, Michael Cutmore. The hotel had been left derelict for several years, allowing it to be subject to vandalism and squatting and had been soft-stripped by its owner. Asbestos surveys identified the presence of ACMs, but these were not managed appropriately nor removed prior to the work. Local building contractors, B and S BM Limited were appointed by the hotel’s second co-owner to carry out works in half of the property while Mr Cutmore himself also stripped

During a proactive inspection, the Health and Safety Executive (HSE) identified that the former hotel was being refurbished and partially demolished whilst ACMs remained in-situ. Some of these ACMs were licensable products (e.g. asbestos insulating board which contains amosite). Due to the extent of the

spread of asbestos dust and debris throughout the building and the lack of adequate control measures, workers and visitors to the properties were at risk of exposure to asbestos fibres.

B and S BM Limited of Prow Park, Newquay pleaded guilty to breaching Sections 2(1) and 3(1) of the Health and Safety at Work Act 1974. The company was fined £22,000 and ordered to pay costs of £5,000.

Michael Cutmore of Mount Wise, Newquay pleaded guilty to breaching S3(2) of the Health and Safety at Work Act 1974 and has been ordered to carry out 120 hours unpaid work and ordered to pay costs of £7,500.

Speaking after the hearing HSE inspector Georgina Speake said, "Companies should be aware that HSE will not hesitate to take appropriate enforcement action against those that fall below the required standards."

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*"The dangers associated with asbestos are well known and a wealth of advice and guidance is freely available from HSE and other organisations."*

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## Haulage company fined after employee fell from height and sustained severe injuries



W D Cormack & Sons, a partnership operating a haulage business, has been fined after a driver fell from a trailer to the ground.

Perth Sheriff Court heard that on 9 February 2016, the employee was securing a load of grain bags on a curtain-sider trailer, at Thormeian Granary, Milnathort, when he fell 2.88 metres from the trailer to the ground. He sustained severe injuries as a result of the fall.

An investigation by the Health and Safety Executive (HSE) identified that there was a failure to make a suitable and sufficient risk assessment and a failure to provide and maintain a safe system of work.

W D Cormack & Sons of, Castletown, Thurso pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974 and was fined £8,000

Speaking after the hearing HSE inspector Norman Schouten said: "This incident could have been avoided by implementing effective measures to control work at height on trailers. Load securing systems, which allow drivers to secure loads from the ground, can be easily fitted to curtain-siders.

"Companies should be aware that HSE will not hesitate to take appropriate enforcement action against those that fall below the required standard."

## Contact Us

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