

HSE Responds to UCATT Release on Construction Deaths

On 18/02/2016, construction union UCATT issued a press release to media that claimed there was an increase in prosecution delays and fall in convictions following construction deaths UCATT cited information that was included in a recent Parliamentary Question response by HSE to Jarrow MP Stephen Hepburn.

HSE construction sector has responded to UCATT's interpretation of the statistics below:

There has been no fall in conviction rates for HSE prosecutions. It actually rose from 92% in 2010/11 to 94% in 2014/15.

The reduction referred to in the UCATT statement (we think) relates to the numbers of fatalities in construction for which prosecutions have been approved. The percentage of fatalities leading to a decision to prosecute in the same year will be lower in more recent years as a number of the more complex investigations will still be on-going or are progressing through the courts. The number of prosecution approvals should also be seen against an overall reduction in construction fatalities from over 100 in 2000/01 to 39(p) in 2014/15.

All workplace fatalities need to be investigated thoroughly to prevent a recurrence and so that where breaches of health and safety requirements are identified then those who have failed in their responsibilities are held to account which may include bringing cases before the courts in England and Wales, or recommending prosecution in Scotland. HSE does not prosecute in every case and will take account of the evidential stage and the relevant public interest factors set down by the Code for Crown Prosecutors. In Scotland the Procurator Fiscal decides whether to bring a prosecution.

A number of discrete stages will affect the pace at which a work-related death is investigated and legal proceedings pursued. The police assume primacy for investigations initially and retain the case until negligent homicide offences have been identified or eliminated. In complex cases it can be several months before HSE is handed primacy. Before HSE brings a prosecution it is normally necessary to await the outcome of a Coroner's inquest. Once a defendant has been charged it can take some time for the case to come to trial, particularly where it is defended and heard in the Crown Court.

Nevertheless, HSE and the other agencies involved in investigating workplace fatalities recognise the importance to victims of ensuring all stages of the investigation and prosecution process are concluded as quickly as possible. The Work Related Deaths Protocol (WRDP) National Liaison Committee recently agreed that any decision to prosecute should be made within three years of the date of death, other than in exceptional circumstances.

As a result of the drive to reduce investigation time and conclude long running investigations, HSE has in recent years concluded several complex investigations. This has meant average time taken between an incident and a prosecution approval has increased in the most recent years, but other data provided in response to Parliamentary Questions shows that over the last 10-years, 23 percent of cases were approved for prosecution within a year of a fatality, 27 percent in the second year, and 30 percent in the third. Therefore 80 percent of HSE prosecutions were approved within the WRDP three-year period. This percentage is still rising.

Note that there is an error in the UCATT release where it states that 30 per cent of cases did not reach the prosecution stage until between three to four years after a worker's death. The PQ responses showed that just 15 percent of cases took between three and four years to reach this stage. The percentage of construction (Standard Industrial Classification, section F) fatalities resulting in at least one prosecution being approved to date in each of the last eight years is as follows:

Year	Number of Fatalities in Construction reported to HSE	Number of fatalities with approved prosecution action*	Percentage*
2007/2008	74	38	51%
2008/2009	57	28	49%
2009/2010	44	20	45%
2010/2011	52	16	31%
2011/2012	49	22	45%
2012/2013	46	16	35%
2013/2014	47	15	32%
2014/2015	39p	7	18%
p – provisional			

*Investigations of some recent and more complex incidents are continuing.

The data UCATT has used to incorrectly suggest the 'fall in convictions' is above. This relates to prosecutions approved following fatalities in any given year. The number in the third column relates to the number in the second column, and not to fatalities in previous years. Therefore, in 2014/15 of the 39(p) fatalities, we approved prosecutions in seven of those cases within the same year. Therefore the observed % reduction in recent years is because of on-going (ie longer than one year) investigations.

Scaffolding Firm in Court after Worker's Roof Fall

Hemel Hempstead Scaffolding Limited has been fined after a worker suffered life changing injuries when he fell from the roof of a barn.

Stewart Thomas from Hemel Hempstead, 31 at the time of the incident, was carrying out scaffolding work in preparation for the installation of solar panels on a barn roof at Gaddesden Home Farm, Bridens Camp on Red Lion Lane on 25 July 2013.

St Albans Crown Court heard that father of one Mr Thomas was placing scaffold boards along the roof ridge when he fell through the fragile roof to the concrete floor eight metres below. He suffered multiple injuries to his head and neck including a brain stem injury, a punctured lung, broken ribs and a lacerated liver. Mr Thomas is now unable to talk, move or feed himself and requires residential care.

A Health and Safety Executive (HSE) investigation found Hemel Hempstead Scaffolding Limited had never provided a written method statement or risk assessment for this work. Critically there were no fall protection measures in place, and there was also no appropriate supervision of inexperienced and trainee scaffolders on the site.

Hemel Hempstead Scaffolding Limited of Seymour Crescent, Hemel Hempstead pleaded guilty to breaching section 2 (1) of the Health and Safety at Work etc Act, 1974 and were fined £110,000 and ordered to pay £22,596 in costs.

After the hearing Stewart's mother Karen Coffey said: "I have had to move from my home and family in Hemel Hempstead to Northamptonshire to be near Stewart.

"My other children find it very hard to see Stewart the way he is now, but along with my mother I visit every day. I have also taken a job nearby that keeps me close to Stewart but also gives me something else to concentrate on.

"My granddaughters are going to miss out so much on the things they would have done and learnt from Stewart.

"Since my son Stewart's accident all our lives have been dramatically changed – hopefully we can try and move forward to make Stewart's life as best we can with his family close by him."

Speaking after the hearing HSE Inspector Stephen Manley said: "The company's approach to health and safety was poor. They failed to properly and safely plan the work they were contracted to carry out and failed to supervise inexperienced young workers. The particular works would have been unfamiliar to the team and so the lack of thorough supervision was lamentable.

"As a result of their failings a young father has been left being unable to communicate or look after himself and he will never be able to play with his young daughter.

When working at height, there is a high likelihood of serious injury or death if safe procedures are not put in place and adequate steps taken to ensure they are followed".

More information on safe working on fragile roofs can be found here:
www.hse.gov.uk/construction/safetytopics/fragile

Infographic: What Does the Future of Work Look Like?

Over the next two weeks, SHP will be publishing a series of infographics from the Health and Safety Laboratory (HSL) on what the future of the working world will look like. Dr Helen Beers explains the first one:

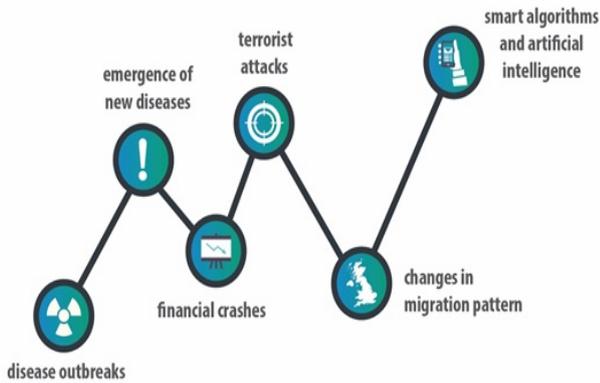
What might the working world look like in five years' time? Or in ten to twenty years' time? Or in the year 2050 and beyond? Knowing in advance what the future might hold can be valuable to an organisation, helping it to plan strategically for the long term, prepare itself for any likely workplace changes and build business agility and resilience.

Predicting the future is impossible but the practice of horizon scanning, which anticipates what *might* happen in the future by analysing available data and trends, can provide a useful guide.

The Foresight Centre, based at HSE's Health and Safety Laboratory (HSL), helps the UK government, organisations and businesses prepare their occupational safety and health (OSH) for the future.

One area of particular relevance to HSL is the changing nature of work and the bearing this will have upon the workplace, employees and health and safety in the future. Using carefully sourced information from horizon scanning activity the Foresight Centre can identify, monitor and make sense of the trends and drivers of change most likely to affect the future workplace.

The future can be disrupted by many things including, for example, events or technologies such as these illustrated below:



Dr Helen Beers joined HSL in 2009 with responsibility for leading HSL's social research work. She is currently the Technical Team Lead within HSL's Foresight Centre, where her work focuses on demographics and ageing.

Helen has a PhD in Health Psychology and prior to joining HSL worked within the health, education and finance sectors.

Poundstretcher Owner to Face Jury Following Breaches

The boss of discount store Poundstretcher, where a number of health and safety offences were committed is to face trial by judge and jury, it has been reported.

60-year-old Abdul Aziz Tayub, owner of the chain of Poundstretcher shops, pleaded not guilty to ten charges when he appeared at Swindon Crown Court earlier this month.

He will stand trial in the autumn, after which the firm itself will be sentenced having pleaded guilty to 16 charges brought by Swindon Borough Council under a number of health and safety at work regulations.

It is alleged that the company did so with Mr Tayub's 'consent, connivance, or neglect'. All of the alleged offences are said to relate to the Poundstretcher store in St Margaret's Retail Park on Oxford Road over a number of days during October and November 2014.

Judge Peter Blair QC adjourned the case to Monday October 31 and released Mr Tayub on bail until then. Poundstretcher Ltd pleaded guilty to 16 charges brought by Swindon Borough Council under a number of health and safety at work regulations.

The company admitted failing ensure the health, safety and welfare of staff at the premises.

It also pleaded guilty to offences under Work at Heights regulations, Personal Protective Equipment at Work regulations, Control of Substances Hazardous to Health regulations, and Reporting of Injuries, Diseases or Dangerous Occurrences.

The judge said he would adjourn passing sentence on the firm until after the trial of Mr Tayub has concluded. *By Lauren Applebey (SHP)*

Company Fined for Safety Failings When Dealing With Asbestos at a School

An Oxford based company has been fined after disturbing asbestos insulation board (AIB) at a school.

Northampton Magistrates' Court heard how Amey Communities Limited (ACL) were contracted to carry out roof refurbishment at Lings Primary School, Hayeswood Road, Northampton. During the course of this refurbishment workers from ACL disturbed AIB in a small plant room.

An investigation by the Health and Safety Executive into the incident which occurred on 6 November 2014 found failings in ACL's project management arrangements. They failed to monitor and identify asbestos materials during this specific roof refurbishment work at the school and ensure key personnel had suitable asbestos awareness training.

Amey Community Limited, of Edmund Halley Road, Oxford, pleaded guilty to breaching Regulation 13(2) of the Construction (Design and Management) Regulations 2007, and was fined £20,000 and ordered to pay costs of £1,737.

HSE inspector Sam Russell said after the hearing:

"The serious health risks of asbestos which is a class one carcinogen are well-known and publicised. Any maintenance or construction work undertaken in buildings built before 2000 must consider and manage the risk of possible asbestos containing materials.

It is important this material is considered at every stage of a construction project and failure to do so places workers, buildings occupants and the public at risk to possible exposure to asbestos fibres."

For further information on asbestos visit:

<http://www.hse.gov.uk/asbestos/>