

Welcome to the first Commercial Services legal update from the Health & Safety Team. The aim of the newsletter is to inform you of enforcement cases with an interest to the Service and will be circulated throughout the year. These cases were heard in court since 2012.

## Chemical Safety

### Careless Worker Left Acid in Bottle- Local Employee Prosecuted

A Castleford employee was prosecuted under health and safety (H&S) legislation after he decanted heavy duty drain cleaner into a plastic bottle and left it by a sink. The bottle was taken by another employee; it split causing burns to his leg. The man was prosecuted for failing to take reasonable care for the H&S of himself and others. He was sentenced to 120 hours unpaid work and £300 costs. (Environmental Health News July 2014)



**Lesson:** Chemicals should be stored in their original containers. If required to be decanted, this should be completed following training and only into suitably labelled containers which are not used for any other chemicals.

**Are you teams aware of their H&S responsibilities? This employee was prosecuted!**

### Boy Suffered Chemical Burns at Leisure Centre

A two-year-old boy slipped in “toxic puddle” left when a highly corrosive chemical was poured down a smelly drain in the swimming pool changing room. He suffered third degree, full skin thickness burns from the chemical and underwent skin grafts but has been left with permanent scarring. The company was fined £45,000 and ordered to pay £20,746 under H&S legislation.

**Lesson:** The Judge commented that the risk “was foreseeable, significant and avoidable. The Company failed properly to eliminate the risk ...” The central management team was not aware of the sites practices nor that the corrosive chemical was kept on site. (BBC news 2013).

**Do you have one nominated person that buys in products? Are you satisfied that all your chemicals are listed with your H&S officer; with relevant substances having COSHH assessments and suitable systems in place for their use?**

## Machinery Safety - Maintenance and Repairs

### Hot Works - Bank Prosecuted for Flash Back Injuries During Machinery Jam

Barclays Bank was prosecuted after an employee suffered burns to his face and arms. The injured person used a flammable air duster on hot equipment to try and clear a jam. (Environmental Health News July 2014)

**Do your teams know how to deal with machinery jams and other problems in a safe manner?**

## Workplace Transport and Training

### **Father of Two left Paralysed in Loading and Unloading of Roll Cages Incident**

A father of 2 was paralysed from the neck down when a roll cage fell and crushed him. He was unloading metal roll cages from the rear of an 18-tonne lorry when one fell on him. Food distribution business BFS Group trading as 3663 were fined £62,000 following a prosecution brought by Slough Borough Council. The temporary worker had not been given any formal training in relation to unloading operations using a tail lift during his four weeks as a temp. The business had a proper and robust training system but that it had not been implemented.



**Lesson:** Senior Environmental Health Professional (EHP) said : "The case emphasizes the need to ensure everyone at work, including temporary and agency staff, receive adequate training and supervision to perform their work safely." (Commercial Motor 2011)

***Have all your agency, temporary and zero hours staff received adequate training? Are your loading and unloading systems safe?***

### **Reversing Vehicle Case - Transit Van Hit Woman**

A woman suffered leg injuries resulting in her struggling to walk and unable to return to work after a year. The woman parked in front of the Halfords reception to unload some parts. She was reaching into the back of the vehicle when a transit van reversed into her door, closing it and trapping her legs. Halfords Autocentres Limited was prosecuted and fined £5,000.

**Lesson:** Halfords failed to put suitable control measures in place to separate pedestrians and vehicles on the site. The Health and Safety Executive (HSE) Inspector stated "Halfords Autocentres didn't carry out a proper assessment of the risks and, as a result, there was no safe system for keeping unloading vans separate from moving vehicles and pedestrians."

(HSE Nov 2012) .

***Are your vehicle movements managed, are pedestrians visitors and workers separated from reversing vehicle?***

## Children on the Premises

In 2009, a 14 month-old child had part of his little finger amputated in the hinge side of a door in a Norwich nursery. The judge said finger-entrapment was an obvious risk and the owners were **fined £40,000**. In 2011, a small boy trapped his finger in a door at Bristol's science museum, requiring surgery and skin grafts. (courtesy EHN 2013 David Kidney) .

***Do young children frequently visit your buildings? Do you need to consider this risk?***

## Pool Safety

### **Lifeguard in Court over Wolverhampton Swimming Pool Death Tragedy**

A lifeguard was accused of not supervising bathers after a young boy drowned at a Swimming and Fitness Centre in 2008. The court had been told the



lifeguard was seen talking to another user, shortly before spotting the boy who was face down in the water. The lifeguard maintained she had kept her eyes on the pool as she spoke. The lifeguard was found not guilty.

**Lesson:** HSE said: "However disappointed we are with today's verdict, this prosecution will reiterate to lifeguards, leisure centres and pool owners worldwide of the importance of constant vigilance when looking after swimmers in their care." (April 2013 Express and Star.)

## **Maldon Swimming Pool Death: Firm Admits Health and Safety Breach**

A leisure firm was prosecuted after the death of a seven-year-old girl at a swimming pool in Essex in 2008. They were found guilty and fined more than £190,000. The investigation into the death identified serious failings with lifeguard cover. The Crown Court heard there were two lifeguards on poolside duty on the day, increasing to three lifeguards when members of the public found Michelle at the bottom of the pool's deep end.

**Lesson:** The HSE investigation concluded that Leisure Connection Ltd failed over a period of time to ensure that sufficient, suitably positioned lifeguards were always on poolside duty to ensure the safety of pool users. The court was told the company had failed to identify that this leisure centre was not compliant with its own procedures, and that the procedures in place at the site were inadequate. (HSE, July 2013)

## **Food Safety Enforcement**

### **Obstruction**

The owner of a cockroach-infested restaurant has been given a six month suspended sentence for obstructing EHPs. EHPs visited the restaurant 21 times to monitor the infestation, during which time they became suspicious that the traps were being moved and tampered with to give the impression that the infestation had been dealt with. (EHN, July 2014)

**Lesson:** Don't interfere or touch with any baits laid by MITRE pest control.

### **Food Poisoning: Liver Parfait**

A hotel in Camberley has been ordered to pay a total of **£72,000** in fines and costs for food safety breaches, EHPs carried out an investigation into reports that 46 of 89 guests suffered food poisoning after consuming chicken liver parfait served by the hotel. The hotel operator pleaded guilty in February 2013 to two charges which included serving chicken liver parfait despite it being in an unsafe condition and harmful to health. The second charge related to a failure to identify potential food safety hazards that could arise from the parfait so that steps can be taken to reduce or eliminate risk. (Surrey Council April 2013)

**Lesson :** Chicken liver is a well-publicised potential source of Campylobacter food poisoning and it is essential that such high risk products are cooked to a minimum temperature of 80°C as per University Leeds Food Safety Policy and held at 63°C .



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Go the Extra Mile