

# Devon construction company fined over safety risk

A Devon based construction company has been fined after placing employees and members of the public at risk of serious injury by failing to suitably maintain their fleet of lorry mounted elevated work platforms (MEWP).

Following a fatal incident in Dawlish on 13 December 2014, a subsequent investigation by the Health and Safety Executive (HSE) found that the MEWP involved in the incident failed to automatically stop before overslewing, increasing the risk of vehicle overturn.

Exeter Crown Court heard that, prior to December 2014, there was an almost complete lack of a planned preventative maintenance systems at the company. The investigation also found that workers had not been given adequate information or instruction regarding how to use or maintain the machines or how to carry out pre-use checks. There is no suggestion that the failings of the company caused the fatal incident in Dawlish.

T J Smith Contracting Ltd of Pellew Arcade, Teign Street, Teignmouth was found guilty of breaching Regulation 2 (1) and 3 (1) of the Health and Safety at Work etc. Act 1974 and has been fined £60,000 and ordered to pay costs of £70,000.

Speaking after the hearing, HSE inspector Sue Adsett said: "Owners of high risk work equipment such as cherry pickers have a responsibility to ensure that they are safe. The manufacturers' maintenance regime should be followed, rather than simply carrying out repairs when the machine breaks down."

## **Notes to Editors:**

1. The Health and Safety Executive (HSE) is Britain's national regulator for workplace health and safety. We prevent work-related death, injury and ill health through regulatory actions that range from influencing behaviours across whole industry sectors through to targeted interventions on individual businesses. These activities are supported by globally recognised scientific expertise. [www.hse.gov.uk](http://www.hse.gov.uk)
2. More about the legislation referred to in this case can be found at: [www.legislation.gov.uk/](http://www.legislation.gov.uk/)
3. HSE news releases are available at <http://press.hse.gov.uk>
4. The machine should automatically have stopped itself from rotating more than 180 degrees because only half of the stabilising legs were deployed. However, it 'overslewed' i.e. rotated further than it should have done, became unstable, and then overturned.
5. Further information about safe techniques can be found at: <http://www.hse.gov.uk/construction/safetytopics/mewp.htm>
6. New industry guidance on "Managing the safe condition of MEWPs" can be found at: <https://www.cpa.uk.net/sfpsq/#MEWPs>

Journalists should approach HSE press office with any queries on regional press releases.

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## [Falkirk company fined after employee killed](#)

A company which manufactures freshly prepared meals was fined £176,000 when an employee was killed after being struck by empty food trays.

Falkirk Sheriff Court heard that, on 22 March 2016, an employee of Bakkavor Foods Limited was assisting in the task of unloading and moving empty food trays. The trays the fork lift truck was carrying made contact with a stack of empty food trays, which then collapsed and struck the employee, causing him to fall to the ground and strike his head. He died from his injuries approximately two weeks later.

An investigation by the Health and Safety Executive (HSE) found Bakkavor Foods Limited had failed to ensure there was sufficient segregation between the fork lift truck and the employees.

Bakkavor Foods Limited of Bridgeness Road, Bo'ness pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974 and was fined £176,000.

Speaking after the hearing, HSE inspector Stuart Easson said: "This was a tragic and wholly avoidable incident caused by the failure of the host company to implement safe systems of work.

"This risk was further amplified by the company's failure to undertake safety measures including segregating vehicles and employees".

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## Balfour Beatty Utility Solutions Ltd fined half a million pounds after exposing workers to debilitating condition

Contractor Balfour Beatty Utility Solutions Ltd. has been sentenced today after exposing workers to a debilitating health condition over a nine-year period.

Balfour Beatty Utility Solutions Ltd was fined £500,000 after the Health and Safety Executive (HSE) found that workers at the company were exposed to hand-arm vibration between 2002 and 2011 which put them at risk of developing Hand-Arm Vibration Syndrome (HAVS).

HAVS is a permanent condition affecting the nerves and blood vessels of the hand. It can cause pain, tingling and numbness, making it difficult to carry out everyday tasks such as gripping and lifting objects, fastening buttons and zips, using a knife and fork or using a tooth brush. In some cases, the hands can have a continuous feeling of wearing mittens and hobbies such as fishing or gardening become impossible to do. Symptoms are often worse in winter when it's cold. The condition can render a worker disabled, affecting their chances of employment.

Sheffield Crown Court heard that workers at the company's sites were regularly exposed to hand-arm vibration while operating hand-held power tools such as hydraulic breakers and floor saws. An investigation carried out by HSE found that the company failed in its legal duty to ensure the risks to workers who used these tools was kept to as low a level as reasonably practicable. Balfour Beatty Utility Solutions Ltd. failed to assess the risk to workers' health, failed to put in place and monitor suitable risk control measures and failed to put in place a suitable system of health surveillance.

The company also failed to report to the enforcing authorities a significant number of cases of employees diagnosed with HAVS as was legally required.

Balfour Beatty Utility Solutions Ltd of Thorncliffe Park, Chapelton, Sheffield pleaded guilty to breaching Section 2 (1) of the Health and Safety at Work etc. Act 1974. The company also pleaded guilty to breaching Regulation 5 (1) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995. These failings occurred between 2002 and 2011. The company was fined £500,000 and was ordered to pay costs of £195,000.

Speaking after the hearing, HSE inspector Christine Mellor said: "This case was about failing to protect workers. Exposure to hand-arm vibration is a well-known risk which Balfour Beatty Utility Solutions Ltd. failed to

adequately control.

“The company failed to heed warnings. Early health surveillance detected ill health but still this was not acted upon to prevent on-going exposure.

“This is a particularly serious case because of the extent and duration of failures. The breaches were repeated over several years and this resulted in persistent poor compliance and significant harm to workers.”

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4. Worker exposure is from hand held power tools typically floor saws, cut off saws, compactor plates, rammers and/or jack hammers used to access utility services running underneath public highways and to repair/replace street lighting.

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## **[Company fined after admitting safety failures](#)**

An Inverurie company has been fined after a teenage worker was seriously injured.

Aberdeen Sherriff Court heard that 17-year-old Michael Paul Mark Mclean was found seriously injured at the premises of Denholm MacNamee Limited on 14 August 2015.

The Inverurie company, which provides support services to the oil, gas and utilities industries, admitted safety failings.

An investigation by the Health and Safety Executive (HSE) identified failings by Denholm MacNamee Limited in relation to the risks to the health and safety of Michael in his special capacity as a young person at work and in relation to ensuring the health, safety and welfare of all the employees who were engaged in the task of ultra-high pressure blasting and painting of a cable

spooler machine.

Denholm MacNamee Limited of Souterford Avenue, Inverurie Business Park, Inverurie pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974 and was fined £120,000 on 4 December 2017.

Speaking after the hearing HSE principal inspector, Niall Miller said:

“The failures of Denholm MacNamee Limited put Michael McLean and other employees at a greater risk of injury.

“This conviction highlights the need for effective risk management particularly when those involved in the work activity are young or otherwise vulnerable. Employers must ensure that they consider the capacity of their workforce and provide appropriate levels of control to prevent risk occurring”

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3. HSE news releases are available at <http://press.hse.gov.uk>
4. The above case was heard on 4 December 2017. At that time a Contempt Order was put in place which prohibited report or comment on the above case until proceedings in a culpable homicide case were complete. This reporting restriction has now been lifted.

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## **[BUPA fined £3m after death of elderly resident](#)**

A care provider has been fined following the death of a resident at an Essex nursing home after he contracted Legionnaires’ disease.

Kenneth Ibbetson, 86, died three months after moving into Hutton Village Nursing Home, which is operated by BUPA Care Homes (BNH) Ltd.

Ipswich Crown Court heard that Mr Ibbetson had moved into the care home in

March 2015 when he was no longer able to cope at home. In June 2015 Mr Ibbetson contracted Legionnaires' disease, a serious waterborne form of pneumonia, and later died in Basildon Hospital on 23 June 2015.

An investigation into Mr Ibbetson's death was carried out by the Health and Safety Executive (HSE).

The investigation found that for more than a year, during which time major refurbishment works were carried out, BUPA Care Homes (BNH) Ltd failed to implement the necessary control and monitoring measures required to safely manage their hot and cold water system. It also found those responsible for overseeing legionella controls and for taking crucial water temperature measurements had not been trained to the required standard.

BUPA Care Homes (BNH) Ltd of Bridge House, Outwood Lane, Leeds, pleaded to breaching Section 3 (1) of the Health and Safety at Work Act 1974. The company has today been fined £3m and ordered to pay costs of £151,482.

Mr Ibbetson's daughter Caroline Peters told the court: "Our father's tragic and untimely death was a terrible shock to me and my two sisters. We had carefully selected Bupa Nursing Home at Hutton Village, expecting that a leading health care company could be trusted with our father's health and safety. (His death) shouldn't have happened.

"The evidence (of)...non-conformities and lack of managerial training was shocking and depressing and brought on feelings of utter despair for our family."

Speaking after the hearing, HSE principal inspector Vicky Fletcher said: "It is heart-breaking to think Kenneth contracted Legionnaires' a matter of weeks after moving into the Hutton Village Care Home. His family have been left devastated by his sudden death.

"Mr Ibbetson and other residents were exposed to the risk of contracting Legionnaires' disease because adequate controls were not in place. The risk is more acute in care home settings because residents are more susceptible due to their underlying health conditions. We would expect those who have a duty of care to understand this and have the necessary controls in place to manage the risk."

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2. After 1 April 2015, the Care Quality Commission (CQC) took responsibility in England for patient and service user health and safety for providers registered with them. Prior to this date, HSE had enforcement responsibility, hence its investigation and subsequent

prosecution on this occasion.

3. More about the legislation referred to in this case can be found at: [legislation.gov.uk/](http://legislation.gov.uk/)
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