

# Former construction company directors sentenced for failing to prevent exposure to asbestos

Two former company directors have been sentenced and fined after a refurbishment project at a former department store was found to have disturbed asbestos containing materials (ACMs) while demolition work was still taking place.

Newcastle Crown Court heard that during October 2017, the former Joplings Department Store in Sunderland was undergoing refurbishment when workers disturbed large quantities of asbestos.

Following a reported concern regarding unsafe construction work at the site, an investigation by the Health and Safety Executive (HSE) found that demolition and stripping work had been carried out inside the property. The age of the building and previous refurbishment work meant that there were vast quantities of ACMs inside the building.

During several months of demolition and refurbishment work the ACMs had been broken up using sledgehammers and brute force. Asbestos fibres were spread across five floors of the building as well as outside of the city centre property. At the time of HSE's intervention, 1,315 square metres of contaminated waste was found across the shop floors and in the stairwell.

Former director of Keebar Construction, Alan Barraclough, of Hutton Lane, Guisborough was found guilty of breaching two counts of Section 37 of the Health and Safety at Work Act 1974 etc. He received a 14-month sentence, suspended for 2 years, and ordered to carry out 120 hours of unpaid community work within 12 months. He was suspended as a director for 10 years and ordered to pay costs of £44,774.21.

Former director of Keebar Construction, James Keegan, of Larkspur Road, Middlesbrough was also found guilty of breaching two counts of Section 37 of the Health and Safety at Work Act 1974 etc. He also received a 14-month sentence, suspended for 2 years, and ordered to carry out 120 hours of unpaid community work within 12 months. He was suspended as a director for 10 years and ordered to pay costs of £44,774.21.

Speaking after the hearing, HSE inspector Phil Chester, said: "Asbestos is responsible for the premature deaths of over 5,000 people each year. Younger people, if routinely exposed to asbestos fibres are, over time, at greater risk of developing asbestos-related disease than older workers. This is due to the time it takes for the body to develop symptoms after exposure to asbestos.

"Exposure to asbestos can cause four main diseases – Mesothelioma (a cancer of the lining of the lungs), asbestos-related lung cancer, Asbestosis (a

scarring of the lungs); and Diffuse pleural thickening (a thickening of the membrane surrounding the lungs, which can restrict lung expansion leading to breathlessness).

“It can take anywhere between 15-60 years for any symptoms to develop after exposure. Companies need to recognise the dangers of removing asbestos without appropriate safety measures, to their employees and members of the public.”

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## **[Company fined after contractor injured in a fall from height](#)**

A manufacturing company has been fined after a contractor sustained injuries whilst working on the top of a machine.

Manchester Magistrates’ Court heard that, on 30 July 2020, a contractor for Manufax Engineering Limited was working on top of the Correa machine which had an access gantry to reach the top.

However, the maintenance task he was carrying out meant he had to step outside of the gantry to reach a particular part of the machine. Whilst outside the gantry he lost his balance and fell. As he fell, he tried to grab the top of the machine but failed and fell 3.9 metres resulting in a fractured right elbow, two fractured ribs and two pelvis fractures.

An investigation by the Health and Safety Executive (HSE) found that the company had no safe system of work for the task that was being carried out, there was a lack of supervision and no formal monitoring system in place to ensure that employees and contractors were working safely on site. The task was not planned, supervised, or carried out in a safe manner.

Manufax Engineering Limited of Cromer Street in Stockport, pleaded guilty to

breaching Section 3 (1) of the Health and Safety at Work etc. Act 1974 and was fined £26,000 and ordered to pay costs of £3,205.42.

HSE inspector, Stephanie Simcock, said after the hearing: "This incident could so easily have been avoided by simply carrying out correct control measures and safe working practices. Falls from height remain one of the most common causes of work-related injury and fatality in this country and the risks associated with working at height are well known."

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## **Construction company fined and director sentenced after workers exposed to asbestos**

A Manchester based construction company has been fined and its director sentenced to a community order of 200 hours unpaid work after workers disturbed asbestos during a refurbishment project.

Manchester Magistrates Court heard that between May and June 2021, Sal Construction Ltd had been contracted to carry out refurbishment work of student accommodation at Darbshire House, Upper Brook Street, Manchester.

The project consisted of providing bathrooms for all rooms and constructing two studio flats. Work began by building two show rooms on the ground floor before beginning work on the top floor which was stripped back to brickwork. During this work, asbestos pipe lagging was removed, and debris spread across the site and in and around the skip in the yard area.

An investigation by the Health and Safety Executive (HSE) found that this work was carried out by five or six employees under the supervision of Sal Zardooi, the sole director of the company instead of a licenced asbestos removal contractor.

Sal Construction Services Limited of Finney Lane, Heald Green, Cheadle pleaded guilty to breaches of Section 2 (1) and Section 3(1) of the Health and Safety at Work etc. Act 1974 and was fined £30,000 and ordered to pay costs of £2,133.45.

Salar Zardooi of Finney Lane, Heald Green, Cheadle pleaded guilty to breaches of Section 2 (1) and Section 3(1) of the Health and Safety at Work etc. Act 1974, by virtue of 37(1) of the Act and was sentenced to 200 hours unpaid work and to pay costs of £2,007.75.

Speaking after the hearing, HSE Inspector, David Norton, said: "These risks could so easily have been avoided by acting on the findings of the asbestos survey and carrying out correct control measures and safe working practices.

"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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Construction sites across Great Britain are to be targeted as part of a month-long respiratory health initiative by the Health and Safety Executive (HSE), it has been announced today.

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Each year in the construction industry, there are thousands of preventable

cases of ill health caused by lung disease due to past exposure to dust at work. These diseases often have a life-changing impact and can result in an early death.

Starting on Monday 6 June 2022, site inspections will have a specific focus on dust control, checking employers and workers know the risks, plan their work and are using the right controls.

HSE has partnered with construction and occupational health organisations to highlight the control measures required on site to prevent exposure to dust. The network of *Dust Kills* partners includes British Occupational Hygiene Society (BOHS), **Construction Industry Advisory Committee (CONIAC)** and Civil Engineering Contractors Association (CECA), Construction Leadership Council (CLC), Health in Construction Leadership Group (HCLG) and Construction Dust Partnership.

HSE's chief inspector of construction, Sarah Jardine, said: "Occupational lung disease is preventable. It can have a devastating impact on both the individuals affected and their family. Every year, construction workers are dying from diseases caused or made worse by their work. We are urging employers and workers to take the necessary precautions today to protect their long-term lung health."

As part of HSE's longer term health and work strategy to improve health within the construction industry, inspectors will be checking the control measures in place to protect workers from inhaling construction dust including Respirable Crystalline Silica (RCS) and wood dust.

The primary aim of the inspection initiative is to ensure workers' health is being protected. However, if safety risks or other areas of concern are identified, inspectors will take the necessary action to deal with them.

Sarah Jardine continued: "Through our inspection initiatives, inspectors can visit a range of construction sites to check the action businesses are taking to ensure their workers' health is being protected. Through speaking to dutyholders we can make sure they have considered the job from start to finish and are effectively managing the risks.

"We want everyone, workers and their employers, to be aware of the risks associated with any task that produces dust and use effective control measures, such as water suppression, extraction and masks, to prevent exposure to dust to ensure they are protected from harm and ill health."

The initiative will be supported by HSE's *Dust Kills* campaign, aimed at influencing employer behaviour by encouraging builders to download free guidance and advice. There is also information to support workers, helping them to understand the risks and how to stay healthy.

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### **Comments from supporters of the Dust Kills campaign**

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Tina Conroy, Chartered Occupational Hygienist, Lead of BOHS's Breathe Freely in Construction campaign said "Exposure to a range of hazardous dusts in the construction industry can be fatal, or at least life-changing, affecting not only those who develop diseases resulting from their work, but also their friends and family. Our aim is to ensure that every construction worker can return to their families reassured that they won't develop life-changing, and often fatal, lung disease.

"This month, as the HSE's inspectors visit businesses across the country, BOHS is urging employers and employees across the construction industry to become more aware about how dusts can harm the lungs of worker and how simple, low-cost control measures can be taken to control exposures to dust. Information outlining best practice in preventing occupational lung disease is available for free from the BOHS's [Breathe Freely](#) website and the HSE's [Workright](#) website."

Peter Crosland, National Civil Engineering Director, CECA said "Construction workers still die every week from respiratory related illnesses brought on by their work and this is clearly not acceptable in the 21<sup>st</sup> century. The reasons behind these fatalities are, I believe, quite complex as no one intentionally sets out to cause harm to either themselves or others but nevertheless these illnesses are still occurring.

"Some of the possible reasons include lack of awareness of the legal duties of employers, lack of awareness of the damage dust can actually cause and lack of time on projects to plan work properly, and that's both at the design stage and on site. Working together with HSE and other stakeholders, we hope to provide valuable advice to those that need it most."

Dylan Roberts, Director Health, Safety & Wellbeing, Skanska UK and co-lead of the Construction Leadership Council's Health, Safety & Wellbeing workstream said "Ensuring everyone goes home healthy everyday is a challenge but one which cannot be compromised. I believe that education is key to safeguarding health. Raising awareness and understanding that dust kills is fundamental to preventing harm."

Mary Cameron, Construction Dust Partnership said "The construction dust partnership is an industry collaboration with an aim to raise awareness within the construction industry about lung diseases related to hazardous workplace dust and to promote good control practice to prevent these diseases. Construction Dust Partnership is a firm supporter of HSE's *Dust Kills* campaign. We share strongly in the motives of this campaign which is to raise awareness amongst construction workers about the risks to their

respiratory ill health from potential exposures to hazardous dusts.

“By working as a team, we bring a sense of unity to this. We stand together and fight together for the same purpose. And when the purpose is something as crucially important as protecting the health of construction workers, then we need to get involved. As health and safety professionals, occupational hygienist, managers who oversee the health and safety of their workers, we all have not just a need but a duty to join in on campaigns aimed to protect worker’s health.”

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lung disease. Each year in the construction industry, there are thousands of preventable cases of ill health caused by lung disease due to past exposure to dust at work. These diseases often have a life-changing impact and can result in an early death. Starting on Monday 6 June 2022, site inspections will have a specific focus on dust control, checking employers and workers know the risks, plan their work and are using the right controls. HSE has partnered with construction and occupational health organisations to highlight the control measures required on site to prevent exposure to dust. The network of Dust Kills partners includes British Occupational Hygiene Society (BOHS), Construction Industry Advisory Committee (CONIAC) and Civil Engineering Contractors Association (CECA), Construction Leadership Council (CLC), Health in Construction



Leadership Group (HCLG) and Construction Dust Partnership. HSE's chief inspector of construction, Sarah Jardine, said: "Occupational lung disease is preventable. It can have a devastating impact on both the individuals affected and their family. Every year, construction workers are dying from diseases caused or made worse by their work. We are urging employers and workers to take the necessary precautions today to protect their long-term lung health." As part of HSE's longer term health and work strategy to improve health within the construction industry, inspectors will be checking the control measures in place to protect workers from inhaling construction dust including Respirable Crystalline Silica (RCS) and wood dust. The primary aim of the inspection initiative is to ensure workers' health is being protected. However, if safety risks or other

areas of concern are identified, inspectors will take the necessary action to deal with them. Sarah Jardine continued: “Through our inspection initiatives, inspectors can visit a range of construction sites to check the action businesses are taking to ensure their workers’ health is being protected. Through speaking to dutyholders we can make sure they have considered the job from start to finish and are effectively managing the risks. “We want everyone, workers and their employers, to be aware of the risks associated with any task that produces dust and use effective control measures, such as water suppression, extraction and masks, to prevent exposure to dust to ensure they are protected from harm and ill health.” The initiative will be supported by HSE’s Dust Kills campaign, aimed at influencing employer behaviour by encouraging

builders to download free guidance and advice. There is also information to support workers, helping them to understand the risks and how to stay healthy. For more information on the programme of inspections visit the Work Right campaign website

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this is clearly not acceptable in the 21st century. The reasons behind these fatalities are, I believe, quite complex as no one intentionally sets out to cause harm to either themselves or others but nevertheless these illnesses are still occurring. "Some of the possible reasons include lack of awareness of the legal duties of employers, lack of awareness of the damage dust can actually cause and lack of time on projects to plan work properly, and that's both at the design stage and on site. Working together with HSE and other stakeholders, we hope to provide valuable advice to those that need it most." Dylan Roberts, Director Health, Safety & Wellbeing, Skanska UK and co-lead of the Construction Leadership Council's Health, Safety & Wellbeing workstream said "Ensuring everyone goes home healthy everyday is a challenge but one which cannot be

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