

# Construction firm fined after worker dies from fall

A construction company in Kent has been fined after a sub-contractor fell and died from his injuries.

Mark Tolley, 51, fell nearly two metres through an opening in a scaffold on 5 July 2017 while working on the construction of six houses on Smarden Road in Kent.

He sustained several broken ribs and serious internal injuries including a punctured lung. He later died on 13 July 2017.

Mr Tolley had been installing vertical hanging tiles on one of the new properties when he fell 1.8 metres through an unguarded opening in the scaffold and landed on the ground below.



An investigation by the Health and Safety Executive (HSE) found Amberley Homes (Kent) Ltd, the principal contractor for the project, had not appointed a person with the necessary skills, knowledge, experience and training to manage the construction site. The company had not ensured that a safe working platform on the scaffold was maintained throughout the different phases of the project. Access to and from the first lift working platform was unsafe as multiple openings had been made which could subsist for several weeks. The openings were unguarded and therefore there was a significant risk of falling circa 1.8 metres from the working platform.

Amberley Homes (Kent) Ltd did not control the site effectively. Its monitoring was ineffective as it did not act on concerns raised by its safety consultant when he drew the problems with site management.



HSE guidance states principal contractors must plan, manage, monitor and coordinate health and safety in the construction phase of a project. More on this can be found at: [Construction \(Design and Management\) Regulations 2015 \(hse.gov.uk\)](https://www.hse.gov.uk/laws/regulations/cdm2015/)

Amberley Homes (Kent) Ltd, of London Road, Sevenoaks, Kent, entered a guilty plea to breaching Regulation 13(1) of the Construction (Design and Management) Regulations 2015 during a trial at Maidstone Nightingale Court in January 2024. The company was fined £25,000 and ordered to pay £83,842.34 in costs at Canterbury Crown Court on 15 March 2024.

HSE principal inspector Ross Carter said: “This tragic death could have been so easily avoided by implementing suitable site management to ensure that the scaffold was appropriately adapted by competent persons for the needs of the different sub-contractors.

“This case highlights that principal contractors should be aware that HSE will not hesitate to take appropriate enforcement action against those who fall below the required standards and do not plan, manage and monitor the construction phase effectively.”

#### **Notes to Editors:**

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# Letter to industry: Registration of the Building Control Profession – transitional arrangements

Director of Building Safety for HSE, Philip White, has today written to the Building Control industry outlining new transitional arrangements for the registration of building control inspectors in England.

The Building Safety Regulator has listened to the concerns raised by the profession, including the potential impact on the construction industry if there are not enough inspectors registered to practice by the legal deadline.

It is crucial these concerns are balanced with the requirement for BSR to implement the Building Safety Act, 2022 and the need to raise standards in the profession; it is also important to remember that these changes were introduced in the wake of the Grenfell Tower tragedy.

A competence assessment extension period of **13 weeks** will be introduced from **6 April to 6 July 2024** to enable those who meet specific criteria to continue to operate. This is not an opportunity to delay completing registration as an RBI and there will be no extension to these arrangements.

BSR has seen a positive response to the changes among the profession and it is encouraging to see a large number of people already engaging with the process. As of today (14 March) **3,261** professionals have started their applications to register.

In line with BSR's [enforcement policy statement](#) and the principles of proportionate regulation, BSR will target its regulatory activity at those who present the greatest risk, particularly those who are not engaging with the new regulatory regime.

[Open letter to Building Control professionals – March 24](#)

## **Letter from the Director of Building Safety to industry:**

*Dear colleague,*

*As you will be aware, a number of concerns have been expressed by the building control profession about whether enough building control professionals will be registered as RBIs by 6 April.*

*I understand those concerns and have been working with colleagues in BSR and across government to consider what we can do to support the profession. To*

that end, the decision has been taken to implement a competence assessment extension period for those meeting set criteria.

Professionals who are not registered by 6 April will not benefit from the extension period and will not be able to continue to work on regulated building control activities.

Experienced building control professionals who are not trainees but have not yet completed a competence assessment will have the scope of their registration temporarily extended provided they meet the following criteria:

*Temporary Class 1 Registration Extension Criteria:*

- They are an existing building control professional;
- They are registered as a Class 1 RBI by 6 April 2024;
- They are enrolled in, and in the process of having their competency assessed through, one of the BSR approved competency assessment schemes by 6 April 2024. These are: [cbuilde.com](http://cbuilde.com), [www.thebscf.org](http://www.thebscf.org), [www.ttd-education.org](http://www.ttd-education.org); and
- A scheme provider has not told them that they have not passed their competency assessment for a second time

Those who meet the above criteria will be allowed a period of 13 weeks from 6 April 2024 to 6 July 2024 to complete their competency assessment and upgrade their registration to Class 2 or 3 (and 4, if applicable).

During this period, the scope of their registration will be temporarily extended, and they can continue to undertake building control work for the class of RBI for which they are undertaking a competency assessment.

Those who meet the criteria but do not successfully complete a competency assessment and upgrade their registration class by 6 July will not be able to continue to undertake regulated building control activities.

More detail on the transitional arrangements can be found here:

<https://www.hse.gov.uk/building-safety/building-control/codes-standards.htm>

This must not be seen as an opportunity to delay – there will be no extension to these arrangements. From 6 July 2024 any professionals who have not completed a competency assessment and upgraded their registration class will only be able to undertake work under supervision.

We expect employers to support staff going through the assessment process by ensuring they have time to complete the assessment process and providing assistance and support to help them to succeed.

I encourage everyone who has not yet done so to register with BSR and enrol with one of the competency assessment schemes as soon as possible.

**Philip White**

Director of Building Safety, HSE

## Notes to editors:

- Plans for regulation of the Building Control profession were introduced in the Building Safety Act 2022. BSR has worked closely with representative bodies from the profession over a considerable period of time to prepare for implementation of the new requirements.
- The standards required to demonstrate competence have been regularly communicated to the profession. [The Building Inspector Competence Framework](#) (BICoF) went through a full public consultation between October and December 2022 and was published in April 2023.
- To continue to carry out building control restricted activity between 6th April 2024 and 6 July 2024, people who are already working as building control professionals but have not yet demonstrated their competence, must register as a Class 1 Registered Building Inspector, and have signed up with a competence assessment scheme.
- Registered Building Inspector's competence requirements are set out in the BICoF. The class of registration required to be achieved will depend on the complexity and risk of the building work being controlled. Inspectors must select a class of registration appropriate to their work and demonstrate their competence through an independent competence assessment scheme. There are 4 Classes of building inspector registration. Class 1, 2, 3 & 4.
- All Registered Building Inspectors sign up to the [Code of Conduct](#) and are accountable to the Regulator. The Code of Conduct also places a responsibility on registered building inspectors not to act beyond their individual competence.
- BSR will focus regulatory activity on building control bodies and inspectors who have not registered and who are not engaging with the regime.

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## [Company fined as worker suffers serious burns](#)

A company has been fined after a worker sustained serious burns to their body.

Carl Lowery had been working on new apartment blocks at The Crescent, Hulme Street, Salford when an electrical flash blew him backwards and burnt his arms and face on 12 May 2020.

The then 37-year-old underwent multiple surgeries following the incident and required a skin graft from his thigh.

The incident happened almost three years after Carl lost his son Bradley to a

rare form of cancer. Along with his wife Gemma, Carl established the Bradley Lowery Foundation, which helps families that are fundraising to obtain medical equipment and treatment.

Carl, now 41, had been working alongside a colleague at SRE Cabling and Jointing Limited, with the company sub-contracted by Aberla M&E Limited to carry out cabling and jointing works on the new apartments.



Carl Lowery

The pair were working on the building's main switchboard, with nearby bus bars left live with electricity and covered by a guard panel.

However, a gap in the guard panel led to a nut rolling behind and coming into contact with the live bus bars, causing an electrical flash which blew Carl backwards and burnt his arms and face.

A Health and Safety Executive (HSE) investigation into this incident found Aberla M&E Limited had incorrectly assumed the guard panel was sufficient separation of the workers from the live bus bars. The company failed to take into account a gap in the guard panel, which risked nuts, bolts, tools and

even fingers coming into contact with the bus bars. There was also a failure to issue a permit to work (PTW) on or near live components, which resulted in the main switchboard being left live. There was also a distinct lack of live works monitoring by the company, with the electrical site manager rarely visiting the work area.

Carl said in his victim personal statement: “Even when Bradley was poorly I worked. I’ve not been able to work since the accident either, mentally or physically.

“My left hand is my dominant hand and after the accident I had no grip. I had to try and learn how to use my non-dominant hand.”

HSE guidance states employers must produce a risk assessment prior to working with electricity. The risk assessment must cover who could be harmed by electrical hazards, how the level of risk has been established and the precautions taken to control the risk. More on this can be found at: [Electrical safety – HSE](#)

Aberla M&E Limited, of The Parklands, Bolton, Greater Manchester, pleaded guilty to breaching Section 3(1) of the Health and Safety at Work etc. Act 1974. The company was fined £40,000 and ordered to pay £20,000 in costs at Manchester Magistrates’ Court on 14 March 2024.

HSE inspector Lisa Bailey said: “This incident has had life-changing consequences for Carl and his family. It could have been avoided if the company had actively monitored and managed procedures, to identify risks and prevent incidents.

“Working with electricity is a high-risk activity and safety must be a priority. Proper planning to ensure that risks are eliminated at system design stage is essential.”

#### **Notes to editors:**

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  2. More information about the [legislation](#) referred to in this case is available.
  3. Further details on the latest [HSE news releases](#) is available.
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# Company fined after worker fractures skull

A solar panel installation company has been fined after a worker fell and sustained life-changing injuries.

The worker, employed by Everyone's Energy UK Limited, had been installing solar panels on the roof of a house on Pentland Avenue in Thornbury, South Gloucestershire when he fell three metres on 4 July 2022.

It is believed the 41-year-old had been carrying materials up a ladder when he fell.



He landed at the foot of the ladder and suffered a fractured skull, leading to a severe brain injury. He is now unable to walk or talk.

An investigation by the Health and Safety Executive (HSE) found Everyone's Energy UK Limited had failed to properly plan, manage, and monitor the work at height. The company had not provided adequate scaffolding around the roof and there was no appropriate means to raise the materials onto the roof.



HSE guidance states that employers and self-employed contractors must assess the risks, take precautions and issue clear method statements for everyone who will work at height. More on this can be found at: [Construction – Working](#)



[at height industry health & safety \(hse.gov.uk\)](https://www.hse.gov.uk)

Everyone's Energy UK Limited, of Old London Road, Hertford, Hertfordshire, pleaded guilty to breaching Regulation 4(1) of the Work at Height Regulations 2005 . The company was fined £28,000 and ordered to pay £6,634.56 in costs at Bristol Magistrates' Court on 12 March 2024.

HSE inspector Ian Whittles said: "This serious incident could have been avoided if the employer had acted to identify and control the risks involved and provided a safe means of getting the materials onto the roof."

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## [INEOS fined after employee seriously injured](#)

INEOS has been fined £400,000 after an employee was seriously injured while carrying out a routine task at its chemicals site in Grangemouth, Scotland.

The worker, 47, was attempting to clear a sump that contained a caustic solution on 25 November 2019. However, he fell into the sump due to inadequate grating and sustained severe burn injuries.

The sump had needed emptying as its contents had reached the high-level design threshold the day before on 24 November.

After laying out various hoses in preparation of emptying the sump, the worker then entered the sump area.



Photo of sump with grating in place taken shortly after the incident

While in the sump area, the worker stepped onto the corner of the grating with his right leg.

The grating however gave way, with the worker's right leg falling into the sump and becoming saturated with the caustic solution. He was submerged in the solution for three seconds before pulling himself out of the sump and was later treated at the burns unit at St John's Hospital in Livingston.

The man sustained permanent scarring to his right leg and was in pain for four weeks following the incident before returning to work in the December.

A Health and Safety Executive (HSE) investigation into this incident found INEOS had failed to undertake a risk assessment of the work involved. There was also no safe system of work in place. The grating was not secured and there were no barriers in place to prevent a fall into the sump.



Ejector pump and hoses were placed in the sump area prior to the incident

HSE guidance on risk assessments states employers, or an appointed competent person, must identify hazards before work takes place, before assessing and controlling the risks involved. Findings should then be recorded, with employers then urged to review the control measures they have implemented to ensure they are working. More on this can be found at: [Managing risks and risk assessment at work – Overview -HSE](#)

INEOS Chemicals Grangemouth Limited, of Chapel Lane, Lyndhurst, Hampshire, pleaded guilty to an offence under Section 2(1) and Section 33(1)(a) of the Health and Safety at Work etc. Act 1974. The company was fined £400,000 at Falkirk Sheriff Court on 8 March 2024.

HSE inspector Lindsey Stein said: “The duties on employers to undertake a suitable and sufficient assessment of risks and to provide a safe system of work are absolute within health and safety legislation and well understood. The dangerous properties of caustic are widely known and this incident could so easily have been avoided with the implementation of straightforward control measures identified through assessment.”

Debbie Carroll, who leads on health and safety investigations for the Crown Office and Procurator Fiscal Service (COPFS), said: “This accident could have been avoided had the risks been recognised and appropriate systems of work put in place in ensuring workers were protected from harm when working in this area.

“Ineos Chemicals Grangemouth Limited’s failure to assess the risks posed resulted in the severe injury and permanent disfigurement of one of their workers.

“This prosecution should remind duty holders that a failure to manage and

implement effective measures can have serious consequences and they will be held accountable for this failure.”

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