

# Partnership on Health And Safety in Scotland

## HSE Scotland Director's report

### Issue

1. To update PHASS members on developments in Scotland since their last meeting.
2. Since the last meeting HSE in Scotland has dealt with two letters from MPs and five from MSPs. (Correspondence from members of the public is counted separately.) Up to 4<sup>th</sup> December we had received 61 FOI requests and a further 248 DPA requests.
3. There have been eight fatal injuries since the last meeting up until the end of November. See Annex 1.

### Successful prosecutions – major cases

4. Mitie Engineering Services (Edinburgh) were fined £300,000 in October following the electrocution of one of their electricians during fit out of a new retail complex.
5. British Gas Services Ltd were fined £2,000 and ordered to pay £2,700 compensation to an elderly resident after she fell down an unprotected hatchway in her hall during the installation of a new central heating system. Adrian Newth, the sole trader heating engineer also pled guilty and was ordered to pay £300 compensation. A press release warned about this very simple risk after four similar incidents.
6. Carntyne Transport Ltd of Glasgow pleaded guilty after the death of a tanker driver who fell three metres from the top of his vehicle. They were fined £5,000 at Cupar Sheriff Court.
7. The July 2006 incident when a gondola cable car on the Nevis Range Gondola came off its haul / suspension rope seriously injuring five people resulted in Nevis Range Development Co being fined £2,000 and Gondola Operator Kevin Byrne, an employee of the company was fined £1,000.
8. Stirling Council was fined £5,000 at Stirling Sheriff Court after pleading guilty to a number of breaches of the Control of Substances Hazardous to Health (COSHH) Regulations 2002 (as amended). The fine followed the diagnosis of a Stirlingshire woodwork teacher with occupational asthma because his employers failed to control exposure to wood dust, a substance hazardous to health and a known cause of occupational asthma and cancer.

9. Other convictions were achieved for: damage to eyesight at a water treatment site; leg injuries from unsafe handling of a steel beam at a shot-blasting company; a fall from height during production at a manufacturing plant. Many of these incidents also resulted in notices being issued during the course of HSE's investigations.

### **Cases submitted to the Procurator Fiscal**

10. Over the period a number of reports have been submitted in relation to a range of incidents involving workers and members of the public in some fatal and very serious injuries such as drowning, amputations (including one at a quarry site in Fife), falls, being crushed by equipment and being dropped in a care home.

### **Construction**

11. James Purnell, Secretary of State at the Department for Work and Pensions (DWP), announced on 4<sup>th</sup> December that he has commissioned an inquiry into the underlying causes of construction fatalities. Rita Donaghy (formerly of the TUC and Chair of ACAS) has been appointed as independent Chair to the inquiry. Independent academic peer reviewers with detailed knowledge of the industry will be involved in assisting Ms Donaghy and the inquiry will report to Ministers next year. Previous [research](#), discussed by PHASS some time ago, which analysed the significant causes of fatal and major injuries in construction in Scotland is likely to be relevant.

12. Construction inspectors are concentrating on refurbishment work and major projects in view of the rapid downturn in house building activity. This is a precursor to a refurbishment initiative across parts of Scotland in March 2009.

13. HSE's Chief Inspector of Construction and Head of Construction Operations in Scotland met representatives of the Scottish Construction Forum to develop a programme for a major event next February. Likely to be hosted by Glasgow City Council, the main theme will be: "Being world class". It aims to support a Commonwealth Games exemplary performance by building on the London Olympics experience.

### **Offshore**

14. Incident investigations reported at the last meeting are on-going.

15. In view of their expertise in marine electrical systems, HSE's Offshore Safety Division (OSD) is helping Field Operations to investigate three fatalities in a fire on a trawler in Fraserburgh Harbour.

### **Examples of other on-going investigations**

16. The Health and Safety Laboratory (HSL) is supporting a complex HSE investigation after a farmer was electrocuted by overhead power lines. HSL are conducting research into the practice of network operators across the UK.

17. A serious and a fatal injury to two gamekeepers in separate incidents (one in Angus, the other in the Borders) are being investigated after their All Terrain Vehicles (ATVs) overturned.

18. Several serious injuries to hands and fingers – including the amputation of a migrant worker's finger - in different incidents are being investigated involving unsafe use of machinery. Three cases of Hand Arm Vibration are being investigated in MOD as well as a case of legionellosis at a hospital and the death of a fitter at a quarry.

### **Notices issued**

19. A wide range of issues prompts inspectors to use their powers to issue an improvement or, in some cases, a prohibition notice. In this period notices have addressed: migrant workers' exposure to lead; potential for falls through a roof; work at height generally; moving live electrical apparatus; lack of competence; poor welfare standards; lack of occupational health control and health surveillance; dust monitoring in quarries and stonemasons; machinery safety; workplace transport safety; dangerous ladders. Notices are often used to achieve immediate improvement during the course of investigations into incidents which may then result in reports to the PF.

### **Campaigns**

20. From 1981-2005, HSE figures show that 2,995 people in Scotland died of mesothelioma. 'Asbestos: the Hidden Killer' campaign was launched at Hampden Park by HSE staff and Secretary of State for Scotland, Jim Murphy MP. It has targeted tradespeople such as plumbers, joiners and electricians who know that asbestos is dangerous but just don't believe that they are personally at risk. Young trainees and apprentices received a stark warning about the dangers of asbestos from HSE at events at FE colleges around Scotland. Radio adverts and a poster and media campaign involving footballers were also run during October and November.

### **HSE liaison with the Scottish Environment Protection Agency (SEPA)**

21. HSE's Chair and Chief Executive met SEPA senior officials in October to discuss more regular liaison, the better regulation agenda, post-Buncefield action and mutual interest in CoMAH issues.

### **Calman Commission**

22. The Calman Commission set up to review the experience of devolution since 1998, published its first interim report on 2<sup>nd</sup> December. The relevant extract concerning workplace health and safety is at Annex 2. No clear consensus has emerged on whether there should be any changes to the reserved status of health and safety at work. The Commission will seek further evidence before deciding whether to make any recommendations for change in this area.

## **HSE launches consultation on its new strategy**

23. HSE has launched a three-month consultation on its new strategy: 'The Health and Safety of Great Britain\Be Part of the Solution'. Geoffrey Podger addressed Redgrave Court staff on the morning of the launch and, with together with the acting Head of Field Operations, David Ashton in Scotland that day, I addressed staff in Glasgow and Edinburgh.

23. On Wednesday 3<sup>rd</sup> December, Judith Hackitt hosted a media briefing on the strategy with 11 trade and specialist health and safety journalists. The Chair presented the rationale behind the strategy, handled questions and took part in one-to-one interviews. Coverage (online) to-date has been positive and has reflected the strategy's key messages.

24. This was followed by a formal launch of the consultation at simultaneous evening events in London, Edinburgh and Cardiff. All three were well attended by key HSE stakeholders. Judith Hackitt led the London based event, delivering the keynote speech alongside LACORS Executive Director Derek Allen and Geoffrey Podger. In Edinburgh, Danny Carrigan, Paul Stollard and Rob Murray from COSLA hosted, and the Cardiff event in Cardiff was led by Sandy Blair, Terry Rose and LACORS Vice-Chairman Keith Evans.

25. The next phase of the consultation will be a series of regional stakeholder workshops across GB in January 2009, starting in Liverpool on 8 January and finishing in Glasgow on 29 January. Both Board and SMT members will attend the events to lead discussions on the strategy. The consultation will formally end on 2 March 2009. The strategy and its supporting documents can be found viewed online at: <http://www.hse.gov.uk/strategy/index.htm>

**December 2008**

**Not for publication.**

**The Future of Scottish Devolution within the Union: A First Report  
December 2008**

**Extract**

**Employment and skills**

5.33 This theme includes questions of employment policy and industrial relations, equal opportunities, health and safety and sector skills.

5.34 Employment and industrial relations are reserved.<sup>63</sup> A number of notable organisations in this area, including the CBI Scotland and UNISON Scotland, have called for them to remain reserved and the Commission believes that this is broadly consistent with the principles underpinning a social and economic Union, particularly those that promote the free flow of capital, goods and labour throughout the UK.

5.35 The subject-matter of much of the Health and Safety at Work etc Act 1974 is reserved. The Health and Safety Executive (a non-departmental public body associated with the UK Department for Work and Pensions) is responsible for protecting the health and safety of people at work across the UK.

- The Commission has heard some arguments that devolving health and safety could be detrimental to the single market currently operating in the UK, but devolution is supported by others who see it as an obvious candidate for Scottish solutions to Scottish issues. CBI Scotland and the Scottish Trades Union Congress, for example, see little merit in devolving health and safety in general (though the STUC would support a greater role for Scottish authorities in enforcement) whilst the Royal College of Physicians of Edinburgh suggests that “lack of freedom to ... make change under health and safety legislation may be impeding enforcement measures” to support policies to tackle smoking and alcohol misuse.
- The Commission has also received evidence that the system for implementing European directives in the area of health and safety does not ensure that proper account is taken of problems of implementation in the Scottish legal system.<sup>64</sup>
- The Commission would welcome further views on whether there is scope for changes to the arrangements for health and safety legislation.