



By Appointment to
Her Majesty The Queen
Health & Safety Adviser
Green's of Haddington Ltd
East Lothian



GREEN'S
OF HADDINGTON LTD

HEALTH &
SAFETY AT
WORK
ADVISERS

NEWSLETTER

SUMMER / AUTUMN 2019

Welcome to the latest issue of our Newsletter. Please forward it to any of your colleagues, clients, friends or associates that you think might find it useful. We are always looking for items of interest or concern that we can include in future Newsletters, if you have any, please send them to us.

1. CLINTON DEVON FARMS

The attempted prosecution of the Farm Manager for Gross Negligence Manslaughter and the farming company for Corporate Manslaughter following a fatal accident has been one of the main topics of conversation with managers across the country.

For those of you who are unfamiliar with the case, a young tractor driver was killed when he lost control of his tractor and silage trailer on steep ground.

The case against the 2 defendants hinged on the service and maintenance of the trailer brakes and on the issue related to a reported fault in the trailer involved in the accident that had, according to the prosecution, not been addressed.

The 2 defendants managed to successfully defend their position mainly by the use of GPS data from the tractor that showed that the brakes had been checked in the yard after they had been adjusted.

If found guilty, the Farm Manager was facing a significant length of time at Her Majesty's pleasure and the Farming Company facing a six-figure fine.

The wider lessons to be learnt relate to

- Ensuring that machinery maintenance including trailer braking systems is carried out as per the manufacturers recommendations.
- Having systems in place that can demonstrate that the servicing has taken place. Where it is done by a service engineer, their invoice would suffice provided that the individual machine was identifiable; where it is serviced in-house, a suitable record keeping system is used.
- Having a robust reporting system for near misses and concerns/faults with equipment so that any issues can be addressed promptly

By having these in place the risk (likelihood x consequences) of an accident taking place will be reduced as will the risk of prosecution should an accident occur.

2. ASH DIEBACK



Ash Dieback is a serious disease which is killing ash trees across Europe at an alarming rate. Despite the environmental impact this has there is also an added risk to health and safety. Landowners are responsible for the trees on the land that they own and as we've spoken to many of you about in the past, tree surveys need to be carried out on a frequent basis to help prevent them being the cause of any accident or injuries.

The Ash Dieback exacerbates this risk and so we would encourage any ash trees on a farm / estate to be looked at carefully. The symptoms of Ash Dieback are:

1. Dark Lesions – Often long, thin and diamond shaped – appear on the trunk at the base of dead side shoots
2. The tips of shoots become black and shrivelled
3. Blackened, dead leaves – may look a bit like frost damage
4. The veins and stalks of leaves, normally pale in colour, turn brown
5. Saplings have dead tops and side shoots
6. In mature trees, dieback of twigs and branches in the crown, often with bushy growth further down the branches where new shoots have been produced.
7. In late summer and early autumn (July – October), small white fruiting bodies can be found on blackened leaf stalks.

If you are planning on holding any events etc then please ensure the trees have been inspected prior to the event occurring and minimise the risks further by keeping people and stalls etc away from being directly beneath the trees canopy (i.e. Do not encourage stalls, marquees, picnics, school gatherings etc to sit beneath the trees)

Further information can be found on the Forestry Commission website:

3. E-LEARNING

There are numerous courses available to employers online which will be easy for employees to take as there is no time lost due to travelling and can be done from a computer either at their homes or in the workplace.

Of course, some courses require training which cannot be performed online (such as chainsaw) however others can be. There are any number of training providers out there but some of our clients are using a company called iHASCO (www.ihasco.co.uk).

They can provide numerous online workplace training courses covering a variety of topics including

- Fire Awareness
- Manual Handling Awareness
- Health & Safety Awareness
- Slips, Trips and Falls Prevention
- COSHH Training
- Asbestos Awareness
- Mental Health Awareness

On-line training is a resource that has been little used in the rural sector, but it can be a relatively cost-effective way of developing your employees for the future.

4. CHIMNEY SWEEPING



It's that time of year when the long summer evenings are dwindling and the thermometer isn't quite reaching the highs of the previous months and where the thought of getting the wood ready for the winter fires is beginning to creep into one's mind.

Therefore, and very importantly, it is probably a good time to arrange for the chimneys and flues of log burners etc to be swept.

Figures recently released from Hetas show that between April 2016 and March 2017 there were just over 5,000 avoidable chimney fires in England and Wales, let alone Scotland and Northern Ireland!

The general advice is to have the chimney swept at least once per year, usually around this sort of time to make certain that no birds have decided to build a nest in the chimney during the summer months.

There are various approved chimney sweeps and we would encourage you to make certain that whoever is used is competent to carry out the work. Ideally, they should be members of;

- The Association of Professional Independent Chimney Sweeps (APICS)
- The Guild of Master Chimney Sweeps (GoMCS)
- The National Association of Chimney Sweeps (NACS) or
- Sweep Safe (www.sweepsafe.com/)

From a landlord's perspective, chimney sweeping will also help manage the risks associated with fire and carbon monoxide poisoning.

5. WELDING FUMES



New evidence has shown that exposure to mild steel welding fumes can cause cancer. Employers should therefore use suitable controls for welding work.

It is likely to advise that the key is to avoid in all circumstances and is therefore likely to include the use of fume extractors (where possible), ensuring that the activity takes place in a well ventilated area, ideally outside and must be performed where 'others' in the vicinity are not going to be affected by the fumes created.

The last option is of course the supply and use of correctly fitting RPE and so users of this will need to be fully face fit tested.

The HSE has some great guidance on whether extraction or respirators are suitable <http://www.hse.gov.uk/welding/fume-extraction-rpe.htm>

6. HSE WARNS FARMERS OF LIVESTOCK RISKS

We all know that agriculture (and its related industries such as Gamekeeping & Forestry) is the most dangerous industry to work in. Agriculture. It accounts for a tiny proportion of the working population (around 2%) yet accounts for around 20% of all workplace fatal accidents.

Nearly a quarter of all fatal accident on farms last year were as a result of cattle related incidents (8 out of 33 reported deaths) so the HSE are having a concentrated effort in this area.

HSE inspectors will be visiting farms to remind farmers of their duty to protect themselves, their workers and members of the public from the risks of cattle. If they are not, inspectors will not hesitate to use enforcement to bring about improvements

Throughout the inspections, HSE will be reminding workers that when working with livestock, they should have the appropriate controls in place:

- proper handling facilities, which you keep in good working order;
- a race and a crush suitable for the animals you handle;
- trained and competent workers; and
- a rigorous culling policy for temperamental animals.

The focus on livestock is part of a programme of inspections over the next twelve months to ensure farmers are doing the right things to comply with the law and prevent death, injury and ill-health.

7. WHAT 3 WORDS



There is a new smartphone app known as 'What 3 Words' which is being well publicised and has proven to be useful in finding individuals, groups of people in various situations (life threatening or not) all over the world.

Essentially the entire globe has been divided into 3m² sections, with each square being identified by three randomly allocated words.

For example, the Greens of Haddington Ltd office is in square: **admire . ever . secure**

This enables a person to find another person simply by logging on, typing in the three allocated words after which the location will be displayed on a map, it's as simple as that.

This is a great way to assist in managing lone workers or to direct the emergency services to an exact point (such as access point onto the moorland etc where they could be met by a staff member with a 4x4 vehicle etc).

We would encourage employees to download the app onto the mobile phones so that it can be used if they get into difficulty themselves or find someone else in need of additional help.

Further information can be found on the following link: www.what3words.com

8. STAFF WHO WORK AWAY FROM HOME

Do you employ members of staff who have to travel and have overnight stays away from home?

In France, the obligation to ensure the health & safety of staff extends further than his time on site.

This came to our attention following news of a French company having to pay compensation to the family of an employee who had a cardiac arrest while having sex with a stranger on a business trip.

The firm had argued that the man was not at work or carrying out any "professional duties" when he joined a guest in her hotel room in what was described by the company as "an extramarital affair with a perfect stranger".

The counter argument was that sexual activity was normal, "just like taking a shower or a meal" and that the employee is entitled to social protection throughout his whole trip.

The court ruled that his death was an Industrial Accident and his family was entitled to compensation.

Vive la France.

9. RECENT PROSECUTIONS

A Grain Store Company Fined Following The Death Of A Worker.

Peterborough Crown Court heard how in the summer of 2016 an employee of a grain store company suffered fatal injuries after being struck by a lorry at the site. The individual had left the control room to walk across the site and on leaving the building he walked in front of a moving lorry.



The driver had checked his mirrors, but he did not see the employee and moved forward fatally injuring the employee.

An investigation by the Health and Safety Executive (HSE) found that the employer had failed to ensure that pedestrians and vehicles could move safely around the site and that they had not provided measures to prevent employees walking into areas where large vehicles are moving.

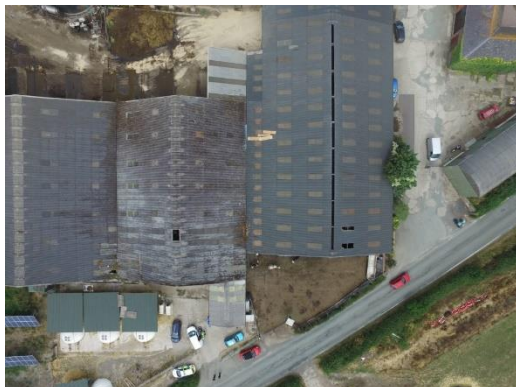
The grain store company pleaded guilty to breaching Section 2 (1) of the Health and Safety at Work Act 1974. The company has been fined **£180,000** and ordered to pay costs of **£20,000**.

After the hearing the HSE inspector said: *"Being struck by vehicles is one of the most common causes of workplace fatal accidents. This was a tragic and wholly avoidable incident caused by failure of the host company to undertake a number of simple measures."*

Farmer fined after worker suffers fatal fall

A farmer has been fined following a worker's fatal fall through the fragile roof of a milking shed on the farm.

Mold Magistrates' Court heard how on 19 July 2018 self-employed contractor was fatally injured whilst he was clearing out the valley gutter from a ladder at a farm near Wrexham



An investigation by the Health and Safety Executive (HSE) found that the farmer failed to plan the work at height and did not have any suitable equipment available to do the work safely.

He pleaded guilty to breaching section 3(2) of the Health and Safety at Work etc Act 1974 and was **fined £26,000** and has also been ordered to pay **costs of £3922.60** and a surcharge of £170.

Speaking after the case the HSE inspector said that there are no winners in this tragic case.

"Those in control of work have a responsibility to devise safe methods of working and to provide the necessary information, instruction and training to their workers and contractors in the safe system of working. If a suitable safe system of work had been in place prior to the incident, the death could have been prevented."

10. FINALLY

As you may have heard by now, Gillian McLean has moved on from Greens of Haddington to further specialise in the management of asbestos and join the heady world of local Government within Edinburgh City Council.

We wish her all the best and thank her for the 5 years of service she has given to Greens of Haddington.

Therefore, the team is down to two but we are endeavouring to find a replacement for Gillian ASAP, if you know of anyone you think maybe suitable, please get in touch.

Should you have any queries / questions regarding topics on this or for any other work activities please contact either Andrew or Sam on the office number: **01620 829 666**.

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Many thanks

Green's of Haddington Ltd Team