

Director given suspended prison sentence and firms fined after worker dies

A director has been given a suspended prison sentence and two firms have been fined after a worker was killed when glass panes fell on top of him while unloading a shipping container from a lorry.

Tawanda Chamwandyita, from Edgbaston, Birmingham suffered fatal crush injuries when units of glass fell on top of him while unloading materials from a shipping container.

The glass fell against his leg, knocking him off the rear of the lorry where he fell to the ground in an incident on Walsall Road, Birmingham on 26 October 2017. Mr Chamwandyita, 37, was killed when approximately 17 glass panes fell on top of him from the lorry.



A joint investigation by the Health and Safety Executive (HSE) and West Midlands Police found the unloading was not properly planned, supervised or carried out safely. The defendants failed to assess the risk of workers falling from the lorry and the risk from large and unsecured items falling from the lorry onto workers while unloading.

Inexperienced and vulnerable workers, some of them just 17-years-old, were

working in dangerous conditions with no supervision, inadequate equipment and without any planning or risk assessment in place.

Evergreen Construction (UK) Limited was appointed as the principal contractor but failed to take action to ensure the safety of the workers. The client, Leyton Homes (Perry Barr) Limited (previously known as Hilux Developments Birmingham Ltd and Fast Item Residential Limited) had engaged their own contractor to arrange the delivery and unloading of the container full of large and heavy items, including the glass. The principal contractor was on site but failed to do anything to ensure that the unloading operation was properly planned, appropriately supervised or carried out safely.

Jalal Rana, managing director of Leyton Homes (Perry Barr) Limited, watched the glass be unloaded from the lorry but did nothing to ensure systems were in place to protect the workers. There was no consideration of the competence of the contractors being used or the safety of the work.

Leyton Homes (Perry Barr) Limited, of Walsall Road, Birmingham was found guilty of breaching Section 3 (1) of the Health and Safety at Work etc. Act 1974 and Regulation 4 (1) of the Work at Height Regulations 2005. They were fined £100,000 and ordered to pay £55,084.67 in costs at Birmingham Crown Court on 20 January 2023.

Evergreen Construction (UK) Limited, of Fowler Road, Essex was found guilty of breaching Section 3 (1) of the Health and Safety at Work etc. Act 1974 and Regulation 4 (1) of the Work at Height Regulations. They were fined £115,000 and ordered to pay £52,561.96 in costs at Birmingham Crown Court on 20 January 2023.

Jalal Rana, of Walsall Road, Birmingham was found guilty of breaching Section 37 (1) of the Health and Safety at Work etc. Act 1974. He was sentenced to nine months imprisonment, suspended for two years, and ordered to pay £57,171.95 in costs at Birmingham Crown Court on 20 January 2023.

HSE inspector Edward Fryer said: "This case highlights the importance of engaging competent contractors and making sure that roles and responsibilities are clearly defined. Management arrangements need to be clear between clients, contractors and principal contractors so that health and safety arrangements can be properly planned, coordinated and implemented.

"All parties are required to ensure that safety arrangements are in place and followed. This was a wholly preventable incident which led to the death of Tawanda Chamwanyita in tragic circumstances."

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.

https://www.hse.gov.uk/?utm_source=press.hse.gov.uk&utm_medium=referral&utm_campaign=notes-to-editors

2. The Construction (Design and Management) Regulations 2015 Requires that the Principal Contractor is appointed by the Client in writing. In the case of Evergreen Construction (UK) Limited the Court considered what constituted an “appointment in writing” and agreed with the HSE stance: CDM 2015 does not define the format or form of words for the appointment of a Principal Designer (PD) or Principal Contractor (PC), merely that it must be recorded in writing. Therefore, the Regulations do not require a specific “letter of appointment” or similar contractual document. The Regulations and associated HSE/industry derived supporting guidance do not go into details or set out any specific form that an appointment in writing should take.
3. More about the legislation referred to in this case can be found at: https://www.legislation.gov.uk/?utm_source=press.hse.gov.uk&utm_medium=referral&utm_campaign=notes-to-editors
4. HSE news releases are available at https://press.hse.gov.uk/?utm_source=press.hse.gov.uk&utm_medium=referral&utm_campaign=notes-to-editors
5. Further information about safety in construction can be found at: https://www.hse.gov.uk/construction/?utm_source=press-release&utm_medium=social&utm_campaign=prosecution-push

Company fined after surveyor dies

An Inverness company has been fined after a surveyor died from injuries caused by an electrical explosion.

Christopher Wayne Earley, a director at CWE Asbestos Consultants Ltd, was carrying out an asbestos survey on 10 December 2020.

Mr Earley was injured by an electrical explosion while inspecting an electric panel. He suffered burns to a third of his body, affecting his face, right arm, right side of his chest and left hand. Three months later, Mr Earley, a father-of-four, passed away aged 64 following multiple infections and sepsis complications brought on by his injuries.

He'd been carrying out the survey for Global Energy Nigg Limited at its Shop 7 premises at Nigg Energy Park in the Cromarty Firth.

An investigation by the Health and Safety Executive (HSE) found the switch room Mr Earley was surveying at the time of the incident was not in an appropriate condition. This created a risk as the live switch panels did not have a warning label indicating they were energised with electricity running through them.

There was no warning of electrical danger at the internal doorway between Shop 7 and the switch room – the internal door itself was missing. This failure to maintain the switch room in an appropriate condition was the underlying cause of the incident. The primary duty of care belonged to Global Energy Nigg Limited.

Global Energy Nigg Limited of Henderson Road, Inverness, Highland pleaded guilty to breaching Section 3(1) and Section 33(1)(a) of the Health and Safety at Work etc Act 1974. They were fined £80,000 at Tain Sheriff Court on 18 January 2023.

HSE inspector Niall Miller said: “This incident could so easily have been avoided by simply 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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2. More about the legislation referred to in this case can be found at: legislation.gov.uk/
3. HSE news releases are available at <http://press.hse.gov.uk>

Company fined £180k after woman's hand had to be amputated

A Greater Manchester company has been fined £180k after a female employee lost her hand after it was dragged into a machine.

The Vita Cellular Foams (UK) Ltd employee was operating a blown line machine at the firm's Oldham Road premises in Middleton on 30 June 2020, when one of her colleagues isolated it from the main power supply after it became blocked with fibres.

The then 23-year-old unscrewed a Perspex window in a bid to identify the blockage, but as she began to remove the fibres by hand, the machine still had some residual power and began to move again, drawing in her right hand.



The woman's hand was drawn into the machine after it became blocked with fibres, Image: HSE

The tragic incident resulted in three fingers being removed before she required further surgery to have her entire right hand amputated.

In a victim personal statement provided to Manchester Magistrates Court, the woman who is now 25, said the incident had completely changed her life.

"Before the accident, I was right-handed," she said.

"I have now had to learn to do all of my daily activities again, including writing.

"This is a constant and daily reminder of what has happened to me and the ongoing impact it will have."

The woman had to undergo four separate operations in a six-week period as well seeing trauma specialists for months after the amputation.

"The accident has deeply affected my life," she added.

"I have a lot of triggers and am frightened easily by loud noises and bangs.

"I have nightmares at least once a night and don't like talking or hearing about what happened.

"The accident has completely changed who I am as a person and I am not able to complete so many of the activities I could before, such as walking my dog.

"I am the complete opposite of the person I was before."



The woman's hand was dragged into the machine as she attempted to unblock it. Image: HSE

An investigation by the Health and Safety Executive (HSE) found the company had no safe system of work in place [for removing blockages from machines](#) even though they were known to happen occasionally.

The Perspex window had been added to the machine some years previously to allow engineers and operators to identify blockages, but had not been fitted with an interlocking guard, so moving parts could be accessed through removal of this when the machine was running. Risk assessments had not been reviewed since the window's addition to include the possibility of employees using it as a way to remove blockages, or to ensure that any excess energy in the machine was dispersed before it was accessed. The company should have ensured that tools were not readily accessible in order to remove the Perspex window.

Vita Cellular Foams (UK) Ltd of Oldham Road, Middleton, Greater Manchester pleaded guilty to breaching Section 2 (1) of the Health and Safety at Work etc. Act 1974. They were fined £180,000 and ordered to pay costs of £4,337.00 at Manchester Magistrates' Court on 17 January 2023.

HSE inspector Lisa Bailey said: "This incident could so easily have been avoided.

"Employers should ensure they carry out an assessment of the risks and put in safe system of works for the operation of all machinery, particularly when clearing blockages.

"Employers should also ensure that adequate information, instruction and training is provided to all who use it."

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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.

Civil engineering firm fined £4m following M6 works

Civil engineering firm Kier has been fined more than £4m after its staff twice struck overhead powerlines while working on the M6 motorway causing cables to land in the path of passing vehicles.

In one incident, an overhead cable the Kier workers brought down hit a lorry. The second time, a cable landed on the motorway.

An investigation by workplace regulator the Health and Safety Executive (HSE) found after one incident Kier workers failed to immediately tell the network provider Scottish Power what they had done.

Both incidents happened on overnight road works part of the smart motorway scheme between junctions 16 and 18 near Sandbach in Cheshire.

During the first incident, a team of three from Kier were working a nightshift on 28 March 2018. The workers were clearing tarmac from the hard shoulder and loading a truck with a digger. As they moved the truck along with an attached crane raised it struck and severed a 11kV overhead powerline that landed in the motorway and in a nearby field. The company failed to immediately tell Scottish Power, which meant the cable was reenergised a number of times while it was lying on the motorway and vehicles were passing.

During the second incident, another team from Kier were taking down a motorway barrier on 21 January 2019. Their tractor struck an overhead cable which led to an unmarked 11kV powerline being hit and snapped by an oncoming lorry.

HSE found that inadequate planning from Kier meant the vehicle used in the first incident was unsuitable despite other more suitable vehicles being available. There was also no task-specific risk assessment available for the workers.

In the second incident, the workers were unaware of the overhead hazards.

In relation to the first incident, Kier Infrastructure and Overseas Limited, of Clippers Quay, Salford pleaded guilty to breaching Sections 2(1) and 3(1) of the Health and Safety at Work etc. Act 1974. In relation to the second incident, they pleaded guilty to breaching Section 3(1) of the Health and Safety at Work etc. Act 1974 and Regulation 13(1) of the Construction (Design and Management) Regulations 2015.

In total, the company were fined £4.215m and ordered to pay costs of £80,759.60 at Manchester Crown Court on 12 January 2023.

HSE inspector Susan Ritchie said: "This is a significant fine reflecting the seriousness of the failures here. The company's failure to plan the work properly and provide an adequate risk assessment put its workers and those using the motorway in significant danger."

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2. More about the legislation referred to in this case can be found at: legislation.gov.uk/
3. More information regarding working with overhead power lines can be found at [Avoiding danger from overhead power lines GS6 \(hse.gov.uk\)](http://hse.gov.uk)
4. HSE news releases are available at <http://press.hse.gov.uk>
5. Footage of the first incident can be found here – https://drive.google.com/drive/folders/13Sq9xDT0pZEp8s5_i5tWcqv5GyRmwT9n

Council fined £280,000 after death of six-year-old girl hit by falling tree

A council has been fined £280,000 after the death of a six-year-old girl who was hit by a falling tree in her school playground.

Ella Henderson was playing with friends at Gosforth Park First School in Newcastle upon Tyne on 25 September 2020 when a decaying willow tree collapsed.

The Year 2 pupil was freed from under the tree by emergency services and taken to Newcastle's Royal Victoria Infirmary, where she died the following morning.

Her parents Neil and Vikki Henderson today paid tribute to their daughter and said every part of their family's lives had changed since losing Ella.

Several other children were hit by the falling tree but managed to escape, some with superficial injuries.

An investigation by the Health and Safety Executive (HSE) found the tree had decayed and was in a poor condition.

Newcastle City Council had failed to identify the extent of the decay or to manage the risk posed by the tree.

Newcastle City Council pleaded guilty to breaching section 3(1) of the Health and Safety at Work etc. Act 1974 and was fined £280,000 and ordered to pay costs of £8,020 by South Tyneside Magistrates on 10 January 2023.

HSE Inspector Ashfaq Ali said: "This terrible incident led to the avoidable death of a young girl. HSE hopes others will learn from what happened to Ella. Our thoughts remain with Ella's family."

Mr and Mrs Henderson said: "We would like to thank the police and the Health and Safety Executive for their thorough investigations, and the kindness and sensitivity they have treated us with throughout.

"We are devastated beyond words to hear of the number of times that this outcome could and should have been changed. No family should ever have to go through what we are going through.

"We hope lessons will be learned from this and feel there needs to be better education and information around which trees are appropriate for school playgrounds and the size they are allowed to grow to.

"We would kindly ask that our privacy is now respected whilst we continue to try to navigate and rebuild our lives around the huge hole that has been created in our life without our beautiful Ella."

In a statement, Ella's mum Vikki, from Newcastle, said: "Up until 25th Sept 2020 we had the perfect life. There was not one thing we would have changed. We had two happy, healthy, little girls who were just the best of friends and life was amazing.

"Having lived that life, we now live with a complete hole in our lives. Having a six year old who loves life and wakes up every morning with 'What are we doing today, Mummy?', loving everything we did and everywhere we went, to suddenly this life, is just indescribable. Taking her big sister places now and knowing how much she would love everywhere we go and taking photos without her is heart breaking.

"It's not just the big things like birthdays, holidays and Christmas, it's also all the small everyday things like not washing her clothes, not buying her toys or clothes but knowing what she'd love, not setting her place at the table or booking a table in a restaurant for four.

"Going to restaurants and being constantly asked 'just one child' and having the empty chair at a table for four. Staying in a cottage and instead of her sharing a room together with her sister, there is now an empty bed. It's just a constant reminder, not that we will ever need one, that she's not here.

"Seeing everyone's life move on and their kids and her friends getting older while we stay still; always with a six year old who will never get her front teeth is devastating.

"When you lose a child you live two lives. The one you should be living and the life you have to live.

"Knowing how happy we would be and what we would have done in the last two years compared to the life we've had to live couldn't be further apart.

"The hardest part is that all we did was what every other parent does every day. She should have been so safe at school and knowing that I'm the only one who doesn't get to pick their child up every day is just the worst feeling.

"When I pass schools on the way somewhere and hear that innocent noise of children playing, I think, that was all she was doing. She was just playing ballerinas with her friends.

"Life is so unfair, and she was so loved and had so much to give this world. As her reception teacher said, "The world is a much sadder place without Ella in it."

"Every single part of our lives has changed. Getting up every morning, knowing it's another day without her and another day she'll miss.

"Being six and healthy makes it very hard to process that she's not here. I live for my girls and I loved taking them to school every day and picking them up, and doing everything with them, and knowing that I will never take her to school, or a party or holiday again – there are no words to describe how this feels.

"I read something online that sums up this life and it said "When you died my heart was torn in two. One side is filled with heartache and the other died with you."

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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.
4. Guidance on [management of the risk from falling trees](#) can be found on the HSE website.