

# Builder receives custodial sentence for failing to report an incident where a worker was seriously injured

A builder has been imprisoned for 24 weeks after he failed to report a serious incident at a construction site he was in charge of.

Westminster Magistrates' Court heard that on 8 January 2019, worker Simon Lewis had been clearing a site on Clarence Avenue, New Malden with an excavator so a new house could be built. The excavator tipped while digging and it trapped Mr Lewis' leg, resulting in an amputation.

An investigation by the Health and Safety Executive (HSE) found that Mr Lewis had no formal training for operating excavators and had requested a 3-ton model was provided for the work. However, only a smaller 1.7-ton excavator was provided, and Mr Lewis was put under pressure to use this. The incident was not reported to the HSE within ten days as required and the defendant, Paul Adams had not investigated the incident. HSE was only able to start an investigation more than eight months later when the victim complained. By this time crucial evidence relating to the cause of the incident was unobtainable and the work was almost completed.

There was no health and safety related documentation and there was no employer's insurance cover for Mr Lewis to claim against. Mr Adams had not obtained any health and safety related training during his 50 years in the construction industry.

Paul Adams, trading as Surrey Conversions of Sutton Common Road, Sutton pleaded guilty to a breach of Regulation 3(1) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013. He received a 24-week custodial sentence and was ordered to pay costs of £2,033.

Speaking after the hearing, HSE inspector Andrew Verrall-Withers said: "This case re-enforces how important it is that incidents are reported so they can be investigated, and improvements made to prevent serious incidents in future.

"The judge noted Mr Adams had not reported the incident even when prompted to by a solicitor, and that despite his construction experience he had failed to take any interest in understanding his legal duties nor invest in health and safety.

"Mr Adams claimed in court that he had stopped working for months due to the impact of the incident. However, the evidence showed he had continued with the work.

"The judge commented on how distressing it must have been for Mr Lewis on top of his life changing injury, to know the incident was not being

investigated.”

He added: “We went to great efforts to ensure Mr Adams made improvements. However, in court it was confirmed that although he had told the probation officer, he had stopped work, he was still carrying out construction work at an unidentified site despite failing a health and safety test.”

**Note 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. [www.hse.gov.uk](http://www.hse.gov.uk)
2. More about the legislation referred to in this case can be found at: [www.legislation.gov.uk/](http://www.legislation.gov.uk/)
3. HSE news releases are available at: <http://press.hse.gov.uk>

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