

# Director and companies fined for failing to manage the risk of asbestos

Two engineering companies and their director have been sentenced for failing to manage the risks from asbestos to employees within the workplace.

A large quantity of asbestos containing materials, including asbestos insulating board, were identified during a HSE inspection at factory premises in Kidderminster owned by Kespar Engineering Limited in February 2019. The premises were occupied by SDF Automotive Limited (who went into administration in November 2019). Employees of both companies worked in the premises. The sole director for both companies was Peter Gerard Parkes.

An investigation by the Health and Safety Executive (HSE) identified the failure of all defendants to manage the risks from asbestos within the premises. This included the failure to ensure the suitable and sufficient assessment of the risks to the health of employees working there was carried out. The defendants were aware that asbestos was present within the premises and had previously prepared asbestos management plans however these were not reviewed or updated. The location and condition of the asbestos on site was not actively monitored and the risk of any exposure to asbestos containing materials was not adequately considered or controlled by the defendants.

Kespar Engineering Ltd of Stourport Road, Kidderminster, pleaded guilty to breaching Regulations 4 (10), 6 (1) and 11 (1) of the Control of Asbestos Regulations 2012. The company was fined £51,000 and ordered to pay costs of £30,000.

SDF Automotive Limited (in administration) formerly of Stourport Road, Kidderminster, pleaded guilty to breaching Regulations 4 (10), 6 (1) and 11 (1) of the Control of Asbestos Regulations 2012. The company was conditionally discharged for two years.

Peter Gerard Parkes of Morville, Bridgnorth, pleaded guilty to several counts under Section 37 of the Health and Safety at Work etc Act 1974. These related to his individual failing as a Director of Kespar Engineering Ltd, SDF Automotive Ltd, and Smethwick Drop Forge Ltd in respect of the offences committed by the Companies under his control. Mr Parkes was given a 12 month suspended prison sentence, fined £9,000 and ordered to pay costs of £14,000.

The case was heard at Kidderminster Magistrates' Court.

Speaking after the hearing, HSE inspector Sarah Reilly, said: "It is important that all dutyholders including company directors recognise the importance of actively managing asbestos containing materials in non-domestic premises and ensure that the potential risk to health posed by the materials is controlled."

"Health and safety law places duties on organisations and employers –

directors can be personally liable and held to account when these duties are breached.”

#### 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. [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>
4. Further information about the duty to manage asbestos can be found at: <https://www.hse.gov.uk/asbestos/managing/index.htm>
5. Guidance on the role of Directors and business owners for leading health and safety at work can be found at <https://www.hse.gov.uk/pubns/indg417.pdf>

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## MoD issued with Crown Censure by HSE after Marine recruit died during an exercise

The Ministry of Defence (MoD) has been issued with a Crown Censure by the Health and Safety Executive (HSE) after a Royal Marine recruit died during a routine training exercise.

On 21 January 2020, Royal Marine recruit Ethan Jones drowned while taking part in a training exercise involving a night beach landing at Tregantle Beach, Cornwall.

As the final part of their training, the recruits took part in an exercise which included disembarking from a landing craft into the sea and wading to shore. The depth of the water was deeper than anticipated and a number of recruits were submerged and had to be rescued. Recruit Ethan Jones was found floating next to the landing craft. Although he was recovered from the water and transported by air to hospital, he tragically died three days later.

HSE found the MoD failed to undertake a suitable and sufficient risk assessment, failed to properly plan, failed to properly supervise, and therefore failed to ensure the safety of their employees during what should have been a routine training exercise.

By accepting the Crown Censure, the MoD admitted breaching its duty under

Section 2(1) of the Health and Safety at Work etc. Act 1974.

HSE inspector Emma O'Hara said: "This was a very serious incident which has resulted in the death of a young Royal Marine recruit at the start of his military career.

"Just like any other employer, the MoD has a responsibility to take all reasonably practicable steps to control the risks to the safety of its employees. In this case they have failed to do so.

"HSE fully recognises the importance of properly managed realistic military training but this does not mean the training itself should expose recruits to uncontrolled or inadequately controlled hazards. HSE expects training exercises to be properly planned and managed through suitable and sufficient risk assessments and safe systems of work."

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2. The breach of law the Censure is being issued over is: Section 2(1) and Section 3 (1) of the Health and Safety at Work etc. Act 1974, which states that: *"It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees"*.
3. The MoD cannot face prosecution in the same way as non-Government bodies and a Crown Censure is the maximum sanction for a government body that HSE can bring. There is no financial penalty associated with Crown Censure, but once accepted is an official record of a failing to meet the standards set out in law.
4. More information on Crown Censures can be found here: <http://www.hse.gov.uk/enforce/enforcementguide/investigation/approving-enforcement.htm>
5. The [Code for Crown Prosecutors](#) sets out the principles for prosecutors to follow when they make enforcement decisions. HSE's approach to Crown Censure is set out in its [enforcement policy statement](#)

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## Health board fined following the death of an elderly patient and failure to

# comply with an Improvement Notice

A Health Board has been fined following the death of a vulnerable patient who left a hospital ward unnoticed through an unsecured door.

The Health and Safety Executive (HSE) investigation concluded that Cwm Taf Morgannwg Health Board failed to act on previous absconding incidents, which would have better protected 74-year-old Lynwen Thomas, who went on to fall in icy conditions in the hospital grounds and suffer a fatal head injury.

On 13 November 2019 Mrs Thomas, a patient on Llynfi Ward at Maesteg hospital, who was a known wanderer, left the hospital after 8pm unnoticed by hospital staff. That evening was very cold with snow on the ground. Mrs Thomas fell on a path resulting in her fatal injury.

An investigation by the Health and Safety Executive found that despite previous absconding incidents, including one involving Mrs Thomas, no reasonably practicable measures were taken at Llynfi Ward until after the fatal incident to protect vulnerable patients from wandering and potentially coming to serious harm.

Following another patient absconding incident at Princess of Wales Hospital, HSE served an Improvement Notice on the Health Board on 30 September 2020. The Notice applied to the Bridgend locality and required the Health Board to assess the risk to patients from escaping, absconding or wandering. The Notice was not complied with by the due date.

Before Cardiff Magistrates' Court, Cwm Taf Morgannwg Health Board pleaded guilty to charges of breaching Section 3(1) and Section 33(1)(a) of the Health and Safety at Work etc. Act 1974 and were fined £850,000 with full costs awarded of ££10,627.30

Speaking after the hearing, HSE inspector Helen Turner, said: "Lynwen Thomas was a vulnerable patient, and known to abscond. Cwm Taf Morgannwg Health Board had a duty to protect her and other patients on Llynfi Ward, and they failed to identify or act on absconding risk.

"Despite significant warnings, there was no risk assessment or physical security measures introduced to prevent vulnerable patients from leaving the ward unnoticed. This incident was easily preventable and the risks should have been identified."

A family statement issued on behalf of Lynwen Thomas said: "Our mother was the loving and kind heart of our family who always put others before herself, especially her children and grandchildren. She was an incredibly caring, loving, and selfless person.

"We are devastated to lose her under such tragic and preventable circumstances.

"Today's prosecution by the Health and Safety Executive is the first step towards establishing what happened to our mother and we are grateful for

their professionalism and engagement with us as a family.

“We want everyone to know how wonderful, caring, and intelligent our mother was. She loved us all very much and we loved her in return. We miss her terribly and it’s only when this is all over that we can start to properly grieve for her.

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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>
4. .Contact HSE’s media team for the full family statement on 0151 922 1221 or email [media.enquiries@hse.gov.uk](mailto:media.enquiries@hse.gov.uk)

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## **Manufacturing company fined after worker loses part of hand**

Laxtons Limited, a West Yorkshire manufacturing company, has been fined for safety breaches after a worker lost part of their hand in a textile machine.

On 24 March 2021 an employee of Laxtons Limited was running a number of textile machines. When he opened a guard to check on a build-up of fibres, he reached in to remove material, losing part of his hand.

An investigation by the Health and Safety Executive (HSE) found that one of the machines had a defective interlock device. This allowed the machine to continue running when the guard, which was located over a pair of in-running rollers and gears, was opened.

Laxtons Ltd of Baildon, Shipley, West Yorkshire pleaded guilty to breaching

Regulation 11 (1) of the Provision and Use of Work Equipment Regulations 1998. The company was fined £15,750 and ordered to pay £759 in costs at Leeds Magistrates' Court.

HSE inspector Julian Franklin said: "Machine guarding should be in line with the appropriate standard, and regularly checked.

"This incident could so easily have been avoided by simply training staff in the safe and correct way of operating machinery, and regularly checking that safety devices are functioning."

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2. More about the legislation referred to in this case can be found at: [legislation.gov.uk/](https://legislation.gov.uk/)<sup>[2]</sup>
3. HSE news releases are available at <http://press.hse.gov.uk><sup>[3]</sup>
4. Please see the link below to doing it the right way when working with machinery: <https://www.hse.gov.uk/agriculture/topics/machinery/farm-vehicles.htm>

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## **Company fined after gable wall collapses**

A building company has been fined £40,000 after the unsupported gable wall of a house collapsed on to a neighbouring property leaving a resident with a fractured sternum and collarbone.

The wall fell during a home refurbishment project in which the existing property had been reduced to a shell with its roof, internal walls, and structural support members for both gable ends removed.

Temporary supports to prevent the collapse of both gable ends were not in place and the correct sequencing of works and co-ordination with the scaffolding contractor failed to take place, resulting in the collapse.

An investigation by the Health & Safety Executive (HSE) found that the incident at a house in Grange Road, Bushey, Hertfordshire, on 5 April 2021, could have been prevented by effective planning of the dismantling sequence of works.

Barote Construction Ltd of Clydesdale Avenue, Stanmore pleaded guilty to breaching Regulation 19 (1) of the Construction (Design and Management) Regulations 2015. The company was fined £40,000, ordered to pay costs of £686 and a victim surcharge of £190 at St Albans Magistrates Court on 6 July 2022.

Speaking after the hearing, HSE inspector Rauf Ahmed, said: "This serious incident could have been avoided if the company had implemented a safe system of structural support for the gable end walls to prevent collapse."

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