

HSE SAFETY

CORNERSTONES

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Read about a housing firm that exposed residents to dangerous levels of carbon monoxide, a woman who survived a trip in a portable loo, a paper company that failed to report worker accidents and a contractor who lacked compulsory insurance.

The Shift Toward Heftier Health and Safety Fines

On 4th June 2013, a four-year-old boy was fatally crushed by a large three-way mirror in an Oxfordshire Hugo Boss outlet store. The child was with his father, who was trying on suits at the retailer's Bicester Village location, when an almost 2-metre-high, 18-stone mirror collapsed on top of the boy. While the blow did not initially kill the child, he did suffer head injuries that proved fatal despite emergency medical intervention.

In its investigation, the HSE found that the store had been hastily refurbished in 2012, and the project lacked detailed plans and proper specifications. Directions on how to install the large, three-way mirror were not only ill-defined, but not followed. The mirror should have been secured to a reinforced wall, but was instead just left propped up in the changing room.

Despite the company claiming it had instituted health and safety inspections in all of its stores since 2000, the store in question had failed to adopt this practice. Furthermore, regardless of the scheduled inspections, the HSE revealed a history of systemic neglect of health and safety measures in the retailer's other stores.

For its negligence, Hugo Boss was fined £1.2 million for the breach of Section 3 of the Health and Safety at Work etc Act 1974, £100,000 for the breach of Regulation 3 of the Management of Health and Safety at Work Regulations 1999, and ordered to pay nearly £47,000 in costs. The court settled on the sizable fine amount after having learned that Hugo Boss' turnover rose from £124.8 million to £192.8 million, with profits increasing from £16.6 million to £23.8 million between 2011 and 2014.

Hugo Boss' substantial fine is representative of a gradual sea change in which courts have been more willing to impose fines which accurately reflect the impact of a company's health and safety offence. This shift in potential penalties for health and safety violations is meant to emphasise accountability for a company's actions and its safety culture. Health and safety must be an integral component within a company—not just relegated to a series of perfunctory 'tick box' exercises.

As courts are more willing to impose higher fines, it is essential that your company implements and regularly updates its health and safety programme. The most effective and efficient method of maintaining a robust health and safety programme is to regularly scrutinise your business practices in order to identify any potential risks to your employees or the public. For each risk that is identified, you will need to develop a risk management scheme to mitigate the potential negative consequences. But this strategy can only be effective if it is constantly encouraged at every level within the company.

The owner of the Hugo Boss in Bicester Village failed to properly identify potential risks to customers, and, as a result, a child is dead. Had the defendant taken the time to ensure that health and safety inspections were being regularly carried out, this tragedy would not have occurred.



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Drug and Alcohol Testing in the Workplace

A recent study from Protecting.co.uk, a health and safety consultancy, revealed that 85 per cent of employees admitted to being drunk at work at least once in the past year. This behaviour costs the British economy an estimated £7.3 billion in lost productivity annually, according to the Institute of Alcohol Studies' most recent research. And, employers are taking note—the United Kingdom's biggest drug and alcohol testing provider reported a 40 per cent increase in the number of workplace screenings from 2011 to 2014.

While drug and alcohol testing is meant to act as a deterrent, research has shown that its effectiveness is, at most, ambiguous. However, what is clear is that testing is one-dimensional, as it only identifies drug use—not the *reason* for the drug use. A more beneficial practice for a company to adopt would be to survey and monitor employee behaviour and performance. That way, employers can identify potential stressors or other harmful aspects present in the workplace.

An effective drug and alcohol policy should be comprehensive and make employees feel at ease rather than vilified when they discuss their personal substance abuse challenges with management. Such a policy should follow these three best practices:

1. Treat alcohol and drug use as an illness rather than a disciplinary issue. This should be reflected in the company's zero tolerance policy.
2. Establish an employee assistance programme to provide employees with support and treatment for their substance abuse problems.
3. Provide employees with stress management courses to teach them effective coping strategies that do not rely upon drugs and alcohol.

Drug and alcohol abuse is often the result of a larger issue, such as stress, anxiety or dissatisfaction. And, while testing is meant to curtail such behaviour, it does little to address the cause. For that reason, a company should monitor their employees' behaviour and performance before working to treat the symptoms.



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NEWS AND PROSECUTIONS

Housing company prosecuted for capping off in-use chimney

North Devon Homes Ltd, a housing firm, was fined £6,000 and ordered to pay £833 in costs after workers capped off the chimney of an occupied property. The firm was hired to repair roof damage caused by excessive moisture, and, in the process of repairs, workers accidentally closed off the chimney, causing it to empty into the home's attic. While none of the residents were injured, they were exposed to potentially dangerous levels of carbon monoxide. In its investigation, the HSE found that the firm's workers lacked clear instructions, and, as a result, breached the Health and Safety at Work etc Act 1974.

Portable toilet moved - with woman still inside

At the Newlyn Fish Festival, a worker for Andyloos, the portable toilet provider, accidentally transported a toilet with a woman still inside. The woman had gone to use the toilet before the start of the festival, unaware that the loo was to be moved. Her presence was not detected as the forklift driver pulled up behind the loo. Fortunately, the woman was unharmed in the incident, albeit in a mild state of shock.

Waste company fined after two workers injured by same machine

Ideal Waste Paper Company Limited was fined £42,000 and ordered to pay £5,551 in costs after two employees suffered arm injuries from the same machine. The company failed to report the second incident through the RIDDOR reporting system and only admitted to the accident when an inspector enquired. In its investigation, the HSE found that the company was in violation of Regulation 11(1) and 19(3) of the Provision and Use of Work Equipment Regulations 1998 and Regulation 4 of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013.

Deeside man fined for failing to possess compulsory insurance

A contractor for Watertight Home Improvements was fined £1,500 and ordered to pay £1,020 in costs after the HSE discovered him encouraging unsafe work practices. During an inspection, the HSE found that the contractor had not enforced sufficient work at height practices which left his workers at risk for injury. Additionally, the contractor failed to possess compulsory employers' liability insurance for his workers.