



Scottish Housebuilders H&S Forum

Legal Update

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Today's Session

- Legal Update – The HSE's Top Priorities for the housebuilding industry
- Recent Cases in Court
- Your key considerations...
- Managing a Major Incident
 - Immediate Response
 - Internal Investigation
 - Dealing with the Regulator
- Q&A



Leading cause of
fatalities in UK
construction
(1/4 of all work deaths
last year)

Key focus areas –
Roof work
Timber frame erection
Scaffold safety
Edge protection
Ladders
Subcontractors

Working at Height

Heavy focus on fall-
prevention measures

Should be Board Level
Risk



Silica Dust – Are we managing exposure

HSE increased focus on Silica Exposure – one of biggest health risks after Asbestos

Updated HSE Guidance on Health Surveillance for exposure

Inspections focusing on Health Surveillance and COSHH arrangements

Managing Contractors

- CDM 2015 is cornerstone
- HSE emphasis on roles of parties – client/PC/PD and managing risks through design and delivery
- Particular attention on:
 - Competence
 - CPP
 - Management of Temporary Works
 - Co-ordination of supply chain

Impact:

As multiple contractors on a housebuilding site and often repeated designs, you must demonstrate effective CDM governance during HSE inspection



Fire Safety Inspections

- Seeing increased inspections focussing on Fire Safety
- Do you have a full fire safety RA in place?
- Is it properly reflected in CPP?
- Ensure it is updated as your project progresses and the state of your site/development changes
- Means of Escape – HOUSEKEEPING!
- Alarms – linked?
- Training – cover in induction?
- Site Security



Alchemist DB Ltd

Circumstances

- Company fined after a labourer drowned after falling into an exposed excavation at a housing site in Hertfordshire.
- 'Death trap'
- No safe pedestrian routes
- Open excavations
- Poor lighting
- Unsafe temporary crossing arrangements
- Remedial actions late

Lessons

- Ensure your excavation edge protection is in place
- Focus on temporary works management
- Site access routes – think about them
- Is there safe segregation?

BHG (Stone) Ltd

Circumstances

- Company and a Director prosecuted following fall through unprotected stairwell during construction of an apartment building
- Unprotected stair openings
- Poor planning
- Inappropriate access equipment
- Lack of supervision

Lessons

- Highlights continued enforcement on:
 - Temporary Works
 - Open voids
 - Work at height planning
 - Site supervision

JLM Solutions Ltd

Circumstances

- Company prosecuted after subcontracted joiner fell through inadequately protected roof-light during roof works
- Inadequate fall protection
- Poor planning
- Insufficient supervision
- Failure to manage contractors

Lessons

- Highlights regular risks in housebuilding industry:
 - Timber frame erection
 - Roof installation
 - Trussed rafters
 - Roof-light installation

Key Considerations:

Personal Liability – focus increasing

- Sections 7 & 37 of the Health and Safety at Work Act 1974
 - Section 250 Crime and Policing Act 2026
 - Corporate Homicide and Culpable Homicide
- All linked to Behaviours – How do you deal with behavioural safety????

Managing Site Visits:

- Focus on:
 - Roof work/work at height
 - Stairwells and floor openings
 - Scaffolds
 - Excavations
 - Traffic management and plant
 - Contractor Competence and Supervision
- Then:
 - Silica dust
 - RPE management/face-fit
 - Health Surveillance



If The Inspector Calls

Managing the Immediate Response

- Identify the regulator – Police/HSE/SEPA/Local Authority and agree communication lines
- Immediate informing the Health & Safety Team and Legal Support
- Co-ordination between parties
- Don't forget... liaison, employees, press etc.
- Health and Safety internal investigation

How Can You Help With This

- Early & accurate Investigation
- Preserve evidence
- Identify, collate and copy key documents
- Check cataloguing of seized material
- Copy relevant electronic data
- Identify witnesses

Gather Evidence & Internal Investigation

- **Must instruct solicitors to invoke Legal Privilege**
- **Confidentiality of Investigation**
- **Must be for the purpose of advising on criminal or civil liability and must obtain that advice**
- **Control internal circulation**

Legal Privilege

A background image showing a hand holding a wooden gavel over a wooden surface, with a circular object in the foreground. The image is faded and serves as a backdrop for the text.

Managing Site Visits:

- Inform relevant staff of the visit
- Ask the Police/HSE/SEPA where they wish to visit on site
- Inspection of accident site likely
- Facilities for meetings
- Meet inspector at the end of the visit
- Seek Legal Advice



If The Inspector Calls

The Police V HSE Investigation Powers

The Police

- Police powers differ North & South of the border
- Voluntary witness statement only
- True right to silence



Health & Safety Executive

- HSE Section 20 HSWA 1974 power
- Compelled statement
- Cannot be used against the individual witness providing the statement
- Witness should be accompanied

The background of the slide is a blurred photograph of a group of people in a meeting or conference. Several individuals have their hands raised, suggesting an interactive session or a Q&A period. The image is out of focus, with the primary subject being the text overlay.

Thank You for Your Attention

Any Questions

Any Questions? Get in touch....

