



Legislation Update

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Foreword

Since Barbour's last legislation update in April, there has been a reopening of society following the lifting of most COVID-19 restrictions in England on 19 July 2021, and in the other devolved nations shortly after. England's government guidance for workplaces has been updated to reflect this but continues to stress the need for risk assessment and action on any risks identified to keep employees safe. The recent prosecution of a firm following an HSE COVID-19 spot check reinforces the importance of doing so.

The COVID-19 pandemic has fundamentally changed the way we think about work and the workplace. Many companies are adopting hybrid working, and according to the CIPD some 40% of employers expect more than half their workforce to work regularly from home after the pandemic has ended. Organisations clearly expect flexible working to become more common, and indeed the government is currently consulting on modernising the way people work, with plans to give every employee in Great Britain the right to request flexible working.

The legislative timetable is slowly picking up following the dominance of COVID-19 in recent months; the Fire Safety Act 2021 received Royal Assent in April and the Building Safety Bill continues its journey through Parliament. The Environment Bill is to receive its third reading in the House of Lords in October, where members of the House will seek to ensure the effectiveness of the final law. In July, the new Office for Environmental Protection (OEP) commenced business, ahead of being formally established later this year once the Environment Bill becomes law. More on these Bills below.

In June, we saw publication of the BSI's 45003 Standard, which aims to help organisations prioritise people by supporting the mental health of workers. The HSE recognises that mental health issues in the workplace are a health and safety risk. As such, it

falls to the employer's duty of care to do everything reasonably practicable to look after their employee's safety, health, and wellbeing. Psychological factors also come with a significant cost; according to the Centre for Mental Health the economic and social cost of mental ill health in England has grown in the last decade to almost £119 billion a year. The benefits of maintaining good psychological health and safety are many, not least because employees will feel more valued, and better and more effective relationships in the workplace will be encouraged.

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Perhaps crucially, 45003 also addresses the risks associated with working out of hours and remote working. With the ongoing impact of the COVID-19 pandemic bringing these particular issues to the fore, along with widespread concern about employee mental health, 45003 could not have come at a better time.

Updates

Building Safety Bill

This Bill was debated at second reading on 21 July 2021 and has now been sent to a Public Bill Committee, which will scrutinise it and is expected to report to the House of Commons by 26 October 2021. The government has stated that the Building Safety Bill is the 'next step' in ground-breaking reforms to give residents and homeowners more rights, powers and protections—making homes across the country safer.'

The Bill will overhaul regulations, setting out a clear pathway on how residential buildings should be constructed, maintained and made safe. Building owners will be required to manage safety risks, with clear lines of responsibility for safety during design, construction, completion, and occupation of high-rise buildings. A 'golden thread' of information will be required, with safety considered at every stage of a building's lifetime—including during the earliest stage of the planning process. Building owners will need to demonstrate that they have effective, proportionate measures in place to manage safety risks. Those who don't meet their obligations may face criminal charges.

The building safety reforms also create the Building Safety Regulator (BSR) in England. BSR will have 3 main functions:

- overseeing the safety and performance of buildings
- helping and encouraging the built environment industry and building control professionals to improve their competence
- leading implementation of the new regulatory framework for high-rise buildings.

The HSE is preparing to carry out these functions once the reforms become law.

The Fire Safety Act 2021

The Act received Royal Assent on 29 April 2021. The Act amends the current Regulatory Reform (Fire Safety) Order 2005 (FSO) in order to bring the recommendations made in the Phase 1 report of the Grenfell Tower Inquiry into law. It extends the FSO to include fire safety responsibilities relating to a buildings' external structure and any common parts, and also increases the number and type of within scope of the FSO. Broadly, the Act ensures that there are more stringent fire safety measures in buildings with multiple occupiers. The Act is not yet fully in force—the different sections come into force at difference times, with some dates still to be announced.



The Building Safety Bill is the 'next step' in ground-breaking reforms to give residents and homeowners more rights, powers and protections

Environment Bill

The Environment Bill completed the Report Stage in the House of Lords for examination and amendments on 15 September. It will receive its third reading in the House of Lords, scheduled for 13 October. The third reading in the Lords gives members the opportunity to tidy up the Bill, to ensure the eventual law is effective and workable. Amendments can be made at the third reading in the House of Lords. According to the government, the main purposes of the Environment Bill are to:

- Transform environmental governance once after leaving the EU by putting environmental principles into law; introducing legally binding targets; and establishing a new Office for Environmental Protection.
- Increase local powers to tackle sources of air pollution.
- Protect nature and improve biodiversity by working with developers.
- Extend producer responsibility, ensure a consistent approach to recycling, introduce deposit return schemes, and introduce charges for specified single use plastic items.
- Secure long-term, resilient water and wastewater services, including through powers to direct water companies to work together to meet current and future demand.

Interim Office for Environmental Protection: Draft environmental principles policy statement.

In August, the OEP provided advice on Defra's draft environmental principles policy statement. The statement is based on a government consultation on the draft legally binding statement covering five environmental principles that ministers have a duty to be guided by when making policy. The OEP has commented that the statement is an important step towards implementing the Environment Bill following Royal Assent. However, it recommends the draft policy statement is strengthened in several areas

Structure—the OEP recommend that Defra looks again at the structure of the policy statement to ensure it avoids any unintended consequences. Policy-makers should apply the principles in all cases where doing so would be beneficial and avoid applying them too late in policy development to be effective

Proportionality—it recommends that Defra revisits the proposed approach to proportionality to promote a less restrictive approach. The weight to be afforded to environmental effects in this balancing exercise needs to be fully clear.

Integration principle—the OEP recommends Defra revisits the approach to the integration principle to ensure it genuinely helps deliver joined-up policy-making and is consistent with the approach taken elsewhere in international and domestic law.

Implementation—it is the view of the OEP that the draft policy statement lacks sufficiently detailed guidance to support policy-makers across government implement it thoroughly and consistently. The OEP recommend that Defra provides greater guidance within and alongside the policy statement. This should include better integration of the policy statement with government's environmental goals, such as those in the 25 Year Environment Plan, and with the natural capital guidance set out in the Green Book. It should also consider the arrangements in place within government to oversee policy statement implementation across government.

in order to ensure that protecting and enhancing the environment is at the heart of future policy across government. It makes the following recommendations above:

The aim of the OEP is to report on progress against the 25 Year Environment Plan by the end of the year, ahead of the OEP being formally established once the Environment Bill becomes law.



Legislation Coming into Force

Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021 comes into force 11 November 2021 these regulations require registered persons of all CQC registered care homes (which provide accommodation together with nursing or personal care) to ensure that a person does not enter the indoor premises unless they have been vaccinated. This is subject to certain exemptions.

Food Information (Amendment) (England) Regulations 2019 and the Food Information (Wales) (Amendment) (No. 2) Regulations 2020 (The UK Food Information Amendment (Natasha's Law)) comes into force 1 October 2021: from 1 October 2021, the requirements for prepacked for direct sale (PPDS) food labelling will change in Wales, England, and Northern Ireland. The new labelling will help protect consumers by providing potentially life-saving allergen information on the packaging. Any business that produces PPDS food will be required to label it with the name of the food and a full ingredients list, with allergenic ingredients emphasised within the list. Businesses need to check if their products require PPDS labelling and what they need to do to comply with the new rules. Prepacked for direct sale or PPDS is food which is packaged at the same place it is offered or sold to consumers and is in this packaging before it is ordered or selected. It can include food that consumers select themselves (e.g. from a display unit), as well as products kept behind a counter and some food sold at mobile or temporary outlets.

Six-month extension on gender pay gap enforcement action: Enforcement action against employers who fail to report their gender pay gap information for the 2020 / 21 year will start on 5 October 2021. This includes all public, private, and voluntary sector employers in scope.

Protection of Persons who Report Breaches of EU Law: On 16 December 2019, the EU passed the Whistleblower Protection Directive (the Directive), establishing a two-year deadline requiring Member States to transpose the Directive's provisions into national law. The Directive is being introduced by the EU as a harmonisation process, ensuring rigorous protection is given to whistleblowers across all Member States.

The Directive provides that Member States must, by 17 December 2021, require employers to:

- introduce internal channels and procedures, including ensuring that the whistleblower's identity is kept confidential
- prohibit all forms of retaliation against whistleblowers
- identify competent authorities to receive, provide feedback and progress reports
- implement effective and proportionate penalties for anyone who retaliates against whistleblowers, obstructs the reporting of a disclosure, or otherwise breaches the duties outlined in the Directive.

Following Brexit, the UK is no longer obliged to implement the Directive. However, UK businesses are advised to consider that the UK-EU Trade and Co-operation Agreement requires that the UK keeps up with EU levels of employment protection. This may therefore see the government decide to amend UK law to keep pace with EU worker rights and best practice.



The new labelling will help protect consumers by providing potentially life-saving allergen information on the packaging

The Directive will signal a significant change in the approach to whistleblowing in many Member States, as well as altering the compliance landscape for employers with European operations. Global employers will need to carefully monitor the issue of local country implementation to ensure there is an approach in place that works for the business and achieves compliance.

Plastic Packaging Tax (Draft): Plastic packaging tax will come into effect on 1 April 2022. The tax will apply to UK manufacturers and importers of plastic packaging which contains less than 30% recycled plastic content. The tax aims to encourage the use of recycled plastic instead of new plastic within packaging.

Plastic packaging tax is charged at a rate of £200 per metric tonne of chargeable plastic packaging components of a single specification, and will apply to plastic packaging manufactured in, or imported into, the UK. There will be an exemption for businesses who manufacture and / or import less than 10 tonnes of plastic packaging in a 12-month period.

UN Climate Change Conference 2021 (COP26): The 2021 United Nations Climate Change Conference (COP26) is taking place in Glasgow on 31 October–12 November 2021. This will be the 26th annual summit, with the UK as President.

In the run up to COP26 the UK is working with every nation to reach agreement on how to tackle climate change. World leaders will arrive in Scotland, alongside tens of thousands of negotiators, government representatives, businesses, and citizens for twelve days of talks. COP26 is looking to achieve:

- securing global net zero by mid-century and keep 1.5 degrees within reach
- adapting to protect communities and natural habitats
- mobilising finance
- working together.

Legislation introduced to require worker representatives on boards:

Legislation has been introduced to Parliament which, if passed, would require companies to appoint worker representatives as directors on their boards. The Employment Bill would (among other things) amend the Companies Act 2006 to require companies with a minimum number of employees or pre-tax profit to ensure that at least a third of their board comprises directors who are responsible for “bringing the perspective of a worker to the boardroom”. The legislation has been introduced as a Private Members’ Bill by the Scottish National Party and so is not officially endorsed by the UK Government. It is currently at the second reading stage in the House of Commons.



In the run up to COP26 the UK is working with every nation to reach agreement on how to tackle climate change

Looking Back

A round-up of some key legislation / standards / guidance that have come into force so far this year:

ISO 45003 Occupational Health and Safety Management—Psychological Health and Safety at Work—Guidelines for Managing Psychosocial Risks

In June 2021, the British Standards Institute (BSI) published BS ISO 45003:2021. To help organisations prioritise people by supporting the mental health of workers, this British Standard aims to provide simple, practical guidance on how to manage the psychosocial hazards that arise in the work environment and that challenge health, safety, and well-being at work.

It is aimed at all types and sizes of organisation, across all sectors.

Specific users will include:

- Line managers
- HR staff
- Business owners
- CEOs and board members.

BS ISO 45003:2021 sets out guidelines for managing psychosocial risk within an occupational health and safety management system based on BS ISO 45001:2018. It covers the development, implementation, maintenance, and continual improvement of healthy and safe workplaces.

Protection of Workers (Scotland) Act 2021

Remaining provisions in the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021 came into force on 24 August 2021 (sections 1 to 3 and section 4(3)). It creates a new offence for situations where a retail worker is assaulted, threatened, or abused while engaged in their work. Committing this offence while a retail worker is enforcing a statutory age restriction also constitutes an aggravation. The offence can result in a fine, with penalties escalating to a prison sentence, with the aggravation adding the potential for more significant fine / sentence.

In England, the British Retail Consortium (BRC) and union Usdaw have urged the UK government to follow Scotland's example in extending new

protections for shop workers. And in a report published in June 2021, the Home Affairs Committee found that violence and abuse towards shop workers is becoming endemic in British society and the policing response is failing to match the scale of the problem.

The Sentencing Council has set out guidelines which means courts should increase sentences for assaults committed against all those providing a service to the public, which includes shop workers.

Health and safety protection extended to workers

The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 came into force on 31 May.

Workers gained the right not to be subjected to detrimental treatment for leaving or refusing to return to work if they believe themselves to be in 'serious and imminent danger'. Previously the right under s44 of the Employment Rights Act 1996 only applied to employees.

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Guidance: New guide available on classifying and labelling titanium dioxide:

The European Chemicals Agency (ECHA) has issued this guide to help companies and national authorities understand how mixtures containing titanium dioxide (TiO₂) need to be classified and labelled following its classification as carcinogenic if inhaled.

The classification and labelling requirements for TiO₂ changed in February 2020. As of 1 October 2021, following Delegated Regulation (EU) 2020 / 2017, new classification and labelling requirements enter into force.

The substance TiO₂ must be classified as carcinogen if inhaled (Carc. 2, H351 (inhalation)) when supplied on its own or in mixtures, where the substance or mixture contains 1% or more of TiO₂ particles with an aerodynamic diameter ≤10 µm. In addition, mixtures containing TiO₂ must be labelled with the supplemental label element 'Hazardous respirable dust may be formed when used. Do not breathe dust' (EUH212).

TiO₂ is used in products such as paints and coatings, including glazes and enamels, plastics, paper, inks, fibres, foods, pharmaceuticals, and cosmetics.

Controlling Noise at Work L108—new edition

This third edition of L108 is aimed at employers and other dutyholders and includes the Control of Noise at Work Regulations 2005 (the Noise Regulations) alongside guidance on what they mean, setting out an employer's legal obligations to control risks to workers' health and safety from noise.

It also gives detailed advice on assessing risks, practical noise control, how to select and use hearing protection, what to consider when buying and hiring equipment and how to develop health surveillance procedures.

The Noise Regulations came into force in April 2006. The duties set out are in addition to those already given by the Health and Safety at Work etc. Act 1974.

The Noise Regulations are designed to protect against risks to both health and safety from exposure to noise—the health risk of hearing damage in those exposed, and safety risks such as noise affecting the ability to hear instructions or warning sounds.

International Accord for Health and Safety in the Textile and Garment Industry

This agreement came into force on 1 September 2021 and continues legally binding commitments to workplace safety in Bangladesh and promises to expand the program to other countries.

It replaces the former Bangladesh Accord on Fire and Building Safety, which was created following the Rana Plaza factory collapse in Dhaka, Bangladesh in April 2013, which killed 1,134 workers and left many more with life-changing injuries.

The previous agreement had been due to expire on 31 August, following a three-month extension that was granted to enable its replacement to be developed. The new pact covers other countries and more general health

and safety, rather than just fire and building safety, and addresses human rights due diligence.

Some of the key new features of the International Accord include:

- broadening the coverage to general health and safety, rather than only fire and building safety
- a commitment to focus on the health and safety program in Bangladesh through the independent RMG Sustainability Council (RSC), and on building a credible industry wide compliance and accountability mechanism
- a commitment to expand the work of the International Accord to other garment-producing countries through the development of feasibility studies
- an option to expand the scope of the agreement to address human rights due diligence along the brands' global supply chains.

COVID-19 Response: Autumn and Winter Plan 2021

The government published its COVID-19 Response—Autumn and Winter Plan 2021 in September, setting out plans for autumn and winter 2021 / 22 in England. In this document, the government outlines the government's plans for autumn and winter 2021 for England. It includes the Government's 'Plan A', which includes building defences through pharmaceutical interventions (vaccines, antivirals and disease modifying therapeutics), identifying and isolating positive cases to limit transmission, and advising people on how to protect themselves and others.

It also outlines a 'Plan B' which would only be enacted if the data suggests further measures are necessary to protect the NHS. This would include asking people once again to work from home if they can, for a limited period. A final decision would be made based on the data at the time. Legally mandating face coverings in certain settings also forms part of Plan B.



The new pact covers other countries and more general health and safety, rather than just fire and building safety, and addresses human rights due diligence

Finance Act 2021

The Finance Bill 2021 received Royal Assent on 10 June 2021 and became the Finance Act 2021. It introduces legislation to establish a Plastic Packaging Tax. The Plastic Packaging Tax will come into force on 1 April 2022 (see above).

Ecodesign for Energy-related Products and Energy Information Regulations 2021

This Statutory Instrument came into force on 1 July 2021. Manufacturers, retailers, and consumers are impacted by these Regulations.

The Regulations provide new Ecodesign and Energy Labelling requirements for certain energy-related products that are placed on the market in Great Britain. The Regulations:

- update existing Ecodesign requirements to increase the minimum energy performance and set material efficiency of electric motors, household washing machines / washer-dryers, household dishwashers, household refrigeration and electronic displays
- introduce Ecodesign requirements which set minimum energy performance and material efficiency standards for welding equipment and commercial refrigeration for the first time
- introduce Energy Labelling requirements for commercial refrigeration to enable consumers to discern the most energy efficient products on the market.

Industrial Decarbonisation Strategy

The Industrial decarbonisation strategy, published in April 2021, sets out how industry can decarbonise in line with net zero, while remaining competitive and without pushing emissions abroad. The strategy:

- sets out the government's vision for a prosperous, low carbon UK industrial sector in 2050
- provides industry with the long-term certainty it needs to invest in decarbonisation.

IPCC report on climate change

The Intergovernmental Panel on Climate Change (IPCC) report on climate change was published in August, concluding that global temperature increases are likely to exceed the 1.5°C agreed in the Paris Agreement.

The report provides new estimates of the chances of crossing the global warming level of 1.5°C in the next decades, and finds that unless there are immediate, rapid, and large-scale reductions in greenhouse gas emissions, limiting warming to close to 1.5°C or even 2°C will be beyond reach.

The report shows that emissions of greenhouse gases from human activities are responsible for approximately 1.1°C of warming since 1850–1900, and finds that averaged over the next 20 years, global temperature is expected to reach or exceed 1.5°C of warming. This assessment is based on improved observational datasets to assess historical warming, as well progress in scientific understanding of the response of the climate system to human-caused greenhouse gas emissions.

The report projects that in the coming decades climate changes will increase in all regions. For 1.5°C of global warming, there will be increasing heat waves, longer warm seasons, and shorter cold seasons. At 2°C of global warming, heat extremes would more often reach critical tolerance thresholds for agriculture and health, the report shows.

Additionally, climate change is bringing multiple different changes in different regions—which will all increase with further warming. These include changes to wetness and dryness, to winds, snow and ice, coastal areas, and oceans.

The Emissions Trading Scheme proposal

In July, the European Commission unveiled the first part of its Fit for 55 package. This proposes a revision of the EU Emissions Trading Scheme (ETS), accompanied by a proposal for the establishment of a Social Climate Fund (SCF). The ETS proposal sets an emissions reduction target for 2030 of 61% compared to 2005, in the sectors covered by the scheme, up from a target of 43% set in 2018. It aims to extend a carbon price signal to over two thirds of EU greenhouse gas (GHG) emissions by 2030.

Key proposed changes:

- an increase of the linear reduction factor from 2.2 to 4.2% from 2024 (the linear reduction factor defines the annual decrease of allowances provided to the market either via free allocation or via auctions) Therefore, the cap will be reduced by a greater amount each year than previously
- there will be a one-off reduction of the cap, which will have the same effect as if the 4.2 % factor had applied from 2021
- to extend the scope to maritime transport
- free allocations will be phased out within 15 years, with a reduction of 10 percentage points per year from 2026
- all revenues from auctioned allowances—where they are not attributed to the EU budget—must be used for climate-related purposes
- a separate ETS for buildings and road transport. This scheme will apply to the release for consumption of fuels used for combustion in the sectors of buildings and road transport, that is, to fuel suppliers.

Consultations

Health and Safety

Making Flexible Working the Default

Under government plans to modernise the way people work, every employee in Great Britain will be given the right to request flexible working—regardless of time served. The proposals in this consultation consider whether limiting an employee’s application for flexible working to one per year continues to represent the best balance between individual and business needs. The consultation also considers cutting the current three-month period an employer has to consider with any request.

The consultation looks at a range of flexible working methods such as job-sharing, flexitime, compressed, annualised, and staggered hours, as well as phased retirement—not just working from home. According to the government, the proposals encourage a ‘framework to encourage conversations and balance the needs of employees and employers’.

The consultation ends on 1 December 2021.

Personal Emergency Evacuation Plans (PEEPs)

Between June and July 2021, the Home Office issued a consultation seeking views on new proposals to implement the Grenfell Tower Inquiry Phase 1 recommendations on Personal Emergency Evacuation Plans (PEEPs).

The consultation set out proposals to implement the recommendations that require a change in law to place new requirements on owners or managers of multi-occupied high-rise residential buildings.

This consultation supports delivery of two of the Grenfell Tower Inquiry Phase 1 recommendations.

The consultation closed on 19 July; feedback is currently being analysed [at time of writing].

Consultation on Proposed Minor Administrative Changes to the Control of Major Accident Hazards Regulations 2015

Issued by the HSE, this consultation relates to administrative changes to the Control of Major Accident Hazards Regulations 2015 (COMAH) which are required because of the dissolution of Public Health England (PHE).

The proposed changes to COMAH consist of deleting references to Public Health England in regs 12(5)(e), 13(7)(d) and 14(3)(a) of COMAH 15 and replacing them with UK Health Security Agency.

This means that under the COMAH Regulations 2015, operators will be required to consult with UKHSA when preparing internal emergency plans and LAs will be required to consult with UKHSA when preparing and reviewing external emergency plans.

The consultation closed on 27 August 2021.

Changes to the Personal Protective Equipment at Work Regulations 1992 (PPER)

The HSE consulted on changes to the Personal Protective Equipment at Work Regulations 1992 (PPER). The aim of the consultation is to understand the impact on stakeholders and businesses of extending the scope of the employers’ duties under the PPER to workers and not only employees.

Following a judgement handed down in the judicial review action in the High Court in November 2020, decided that the government had failed to properly transpose Article 8(4) and 8(5) of EU Directive 89/391/EEC (“the Framework Directive”) and Article 3 of EU Directive 89/656/EEC of 30 November 1989 (“the Personal Protective Equipment Directive”) into UK law.

The High Court found that the PPE Directive required duties to be extended to ‘limb (b) workers’ and not only ‘employees’. Therefore, the HSE is making amendments to the PPER in order to align with the court’s judgment.

The consultation closed on 17 August 2021.

Environment

UK Emissions Trading Scheme: proposed amendments

In July, the government consulted on proposed amendments to support effective operation of the UK Emission Trading Scheme (UK ETS) by addressing a number of residual technical issues identified during the development and legislation of the scheme. The consultation asked for comments on the proposed Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2021.

The consultation concluded on 7 September 2021; feedback is being analysed [at time of writing].

Prosecutions

A round-up of some key prosecutions that have happened since April this year:

Health and Safety and Estates and Facilities Management

First prosecution from HSE COVID-19 Spot Check programme

Following multiple health and safety issues being identified during a proactive COVID-19 spot check at a site in Manchester, a construction contractor has been fined. During the inspection, numerous safety issues were identified including working at height, welfare, COVID-19, site security, and electricity. Principal contractor Umar Akram Khatab pleaded guilty to breaches of Section 21 of the Health and Safety at Work etc. Act 1974 and Regulation 13(1) of the Construction (Design and Management) Regulations 2015. He was sentenced to a 12-month community order. He was also ordered to pay £3,000 towards costs and a victim surcharge of £95.

£1.5 million following ORR prosecution after death of employee

Tyne Wear Metro operator, Nexus, was fined £1.5 million after pleading guilty to an offence under the Health and Safety at Work etc. Act 1974., for failing to ensure the safety of staff. The fine followed the death of a Nexus employee at the company's South Gosforth depot in July 2014.

John Bell died while working at height carrying out maintenance work on high voltage overhead cables. He was electrocuted after contacting a wire he believed to be isolated from the power supply, but, due to the incorrect installation of equipment, it was in fact live. Industry regulator the Office of Rail and Road (ORR) found safety critical procedures were ignored and some continued for a substantial period after Mr Bell's death. Nexus were fined £1.5 million and ordered to pay £172,390.98 in costs.

£1.8m fine for British Airways PLC

British Airways Plc was fined following a vehicle collision at Terminal 5 of Heathrow Airport. In 2018, an employee was struck by a tug pulling a train of vehicles used to transport baggage around the airport. She was knocked under another passing tug loaded with luggage, sustaining serious crush injuries. Amongst other things, significant failings were found in the general management of health and safety and workplace transport risks, including issues relating to supervision and monitoring, risk assessment and training. British Airways PLC pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974 and was fined £1.8 million with costs of £35,724.

Metalworking fluids caused worker's permanent allergic dermatitis

An automotive company was sentenced after an employee developed an allergic form of dermatitis after coming into contact with metalworking fluids. The employee at Xtrac Ltd was splashed on the face and upper body with metalworking fluid whilst cleaning out a grinding machine at a manufacturing site in Thatcham. As a result, the employee had an allergic reaction, consisting of a very painful burning sensation, inflamed, broken and oozing skin, and was diagnosed with allergic contact dermatitis. This is a permanent allergy. Xtrac Ltd had failed to carry out a suitable and sufficient risk assessment to identify the potential for exposure to the hazardous chemicals and had not implemented necessary controls to prevent skin contact. The company pleaded guilty to breaching Section 2 (1) of the Health and Safety at Work Act 1974. They were fined £100,000 and ordered to pay costs of £639.59.

School fined after worker injured in fall from ladder

Southend High School for Boys Academy Trust was sentenced after a worker fell from a ladder. The incident happened on 19 February 2019, when the injured person was using an unsecured ladder at the school to dismantle a canopy roof. The ladder slipped, causing the worker to fall and sustain fractures to his face, a fractured femur, and other injuries. The school pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974 and was fined £24,000 with costs of £5,446.

Offshore oil company fined for hydrocarbon release

Apache was sentenced after failing to provide written safety procedures for the depressurisation of an oil well, which led to the release of more than 1000kg of hydrocarbon gas at their Beryl Alpha production installation in the North Sea. The HSE found that deficiencies in Apache's safety management system (SMS) lead to the release of more than 1000kg of hydrocarbon gas; for example, failure to undertake a risk assessment for depressurising gas lift wells. Apache Beryl Limited of Caledonia House, Prime Four Business Park, Kingswells Causeway, Aberdeen pleaded guilty to breaching regulation nine of the Offshore Installations Prevention of Fire and Explosion, and Emergency Response Regulations 1995 (PFEER). They were fined £400,000.

Vue cinema chain fined £750,000 over seat crush death

The Vue cinema chain has been fined £750,000 for safety breaches which led to the death of a man who became trapped under a chair. It was also ordered to pay £130,000 in costs for what the Judge said was "an accident that never should have happened". Ateeq Rafiq died in March 2018 after he was crushed by a motorised footrest at Birmingham's Star City cinema. The judge said there had been a "complete lack of a risk assessment". Vue Entertainment Ltd pleaded guilty in April 2021 to failing to carry out an adequate risk assessment and failing to ensure the safety of visitors to the cinema.

£6.5m fine after death of 11-year-old boy at freight terminal

WH Malcolm Limited, operators of Daventry International Rail Freight Terminal near Rugby, was fined £6.5m after being found guilty of negligence over the death of an 11-year-old boy in 2017.

The company was sentenced following a prosecution brought by the rail regulator, the Office of Rail and Road (ORR). WH Malcolm were charged with, and found guilty of offences under the Health and Safety at Work etc Act 1974 for failing to ensure, so far as is reasonably practicable, that persons not in their employment were not exposed to risks to their health and safety through the conduct of their undertaking; and the Management of Health and Safety at Work Regulations 1999 in that it failed to undertake a suitable and sufficient assessment of the risks to the health and safety of persons not in their employment.

Environment

Record £90m fine for Southern Water following EA prosecution

On 9 July, Southern Water was handed a record £90 million fine after pleading guilty to thousands of illegal discharges of sewage which polluted rivers and coastal waters in Kent, Hampshire and Sussex.

The sentence follows 51 guilty pleas to widespread and long-term breaches of environmental law by Southern Water between 2010 and 2015. The offences were found to be caused by deliberate failings, causing major harm (Category 1) to protected areas, conservation sites and oyster beds.

The case, which is the largest criminal investigation in the Environment Agency's 25-year history, saw pollution offences from 16 wastewater treatment works and one storm overflow brought together in one prosecution at Canterbury Crown Court.

Thames Water fined £4 million after catastrophic sewage blunder

Thames Water was fined £4 million after untreated sewage escaped from sewers below London into a park and a river. Dozens of high-priority alarms would have told staff about the incident, but were either missed or ignored, leading to pollution of a popular park, woodland, and the Hogsmill River, in New Malden. The sewage treatment works at Surbiton couldn't handle the amount of sewage produced by Storm Imogen in the winter of 2016. Instead of the sewage being treated, pumps failed, allowing raw effluent to back up along the sewer network, bursting out of a manhole to cover an area the size of 3 football pitches. The Environment Agency charged Thames Water under sections 33 (1) (a) and 33 (6) of the Environmental Protection Act 1990; and regulations 12 (1) (b), 38 (1) (a) and 38 (2) of the Environmental Permitting (England and Wales) Regulations 2016.

Biffa fined £1.5 million for 'reckless' export breach

Biffa Waste Services Ltd was fined £1.5 million for breaking export law, in what the judge called "reckless, bordering on deliberate." The Environment Agency found breaches of export law involving rolling contracts to send vast amounts of waste to India and Indonesia. Material exported illegally included 50,000 tins; 40,000 plastic bags; 25,000 items of clothing; and 3,000 nappies. The firm was convicted of four breaches of Regulation 23 of the Transfrontier Shipment of Waste Regulations 2007 between October 2018 and April 2019.

Yorkshire Water billed £150,000 for discharging sewage effluent

The Environment Agency prosecuted Yorkshire Water Services Limited for illegally discharging sewage effluent into the Potter Carr Nature Reserve. Yorkshire Water Service Limited pleaded guilty to two charges of causing sewage sludge to enter a tributary of the Mother Drain and breach of permit condition relating to ammoniacal nitrogen levels in their final treated sewage effluent. The company was fined a total of £150,000 and ordered to pay £36,506.25 costs.

Convictions in illegal tipping site case

A scrap metal exporter and a middle-man broker were told to pay over £800,000 for taking advantage of a quarry that became an illegal tipping site. European Metal Recycling Ltd, UK Environmental Ltd and its sole director Amar Seth all admitted to playing a part in the exploitation of Stowey Quarry. An investigation revealed 2001 tonnes of metal, foam and plastic shreds from end-of-life vehicles were sent from Tilbury Docks in London to the former limestone quarry near Chew Valley Reservoir under the guise of non-hazardous 'mechanically treated soil substitute'. UK Environmental Ltd was fined £28,000 and ordered to pay prosecution costs of £83,000. UK Environmental Ltd further agreed Confiscation figure £7,048. European Metal Recycling Ltd was fined £400,000 and ordered to pay prosecution costs of £350,000.00. European Metal Recycling further agreed Confiscation figure £32,958.

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