

Health and Safety

Bulletin

Guarding

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During January 2015, the HSE has successfully prosecuted a number of companies for failing to prevent serious accidents involving machinery – all of which were associated with missing or poorly maintained guarding.

What is the legal requirement?

Under the Provision and Use of Work Equipment Regulations 1998 (PUWER) employers have a duty to prevent access to dangerous parts of machinery. This is an “absolute” duty (i.e. it is not preceded by the phrase “so far as is reasonably practicable”) – this means that the only defense available to an employer is to demonstrate that they took all reasonable steps and exercised all due diligence to avoid the offence.

The HSE are clear in the Approved Code of Practice (ACOP) that accompanies PUWER that there is a hierarchy of measures that should be considered when preventing access, with a fixed guard being the preferred measure, followed by automatic or adjustable guards with interlocks, through other safety devices such as pressure mats, and finally to providing tools such as pushsticks, that will keep the operator’s hands away from the danger area. As with all such safety hierarchies, the order derives from the reliability of the control, the more effective risk reduction measures rely least on the operator for them to work effectively.

Additional controls

If organisations have to rely on the less reliable methods of protection, they will often have to supplement the engineering control with other measures, to make up for the inherent weakness. So for example, if the protection relies on an interlock on an adjustable guard, there should be a system of maintaining and testing the interlock – evidence of this should be available; if the protection relies on the use of a pushstick, only competent operators (i.e. those who have not only received training but also been assessed in terms of their skill and understanding) should be allowed to use the equipment, and they should be supervised to check they are following the safe system of work.

How do you identify whether your controls are adequate?

There is no requirement in PUWER for employers to assess their equipment against the specific regulations – although the ACOP suggests this should be accomplished when carrying out the risk assessments required under the Management of Health and Safety at Work 1999 (MHSWR) risk assessments.

The HSE has produced guidance notes for equipment with significant risks such as woodworking equipment (e.g. beams saws, spindle molders) and engineering workshop equipment (e.g. lathes, milling machines) – these suggest the standards for guarding, and their content is useful in helping to understand the standards the HSE see as acceptable.

Conclusion

Over 20% of the fatalities and 14% of the specified injuries in manufacturing involved contact with moving machinery in 2013/14. With these accounting for such a high proportion of the statistics, it’s likely that the enforcement agencies will continue to focus on compliance in this area.

Recently issued health and safety information:

- L22 PUWER ACOP and guidance L22 <http://www.hse.gov.uk/pubns/priced/l22.pdf>
- L112 Safe use of power presses ACOP and guidance <http://www.hse.gov.uk/pubns/priced/l112.pdf>
- L114 Safe use of woodworking machinery ACOP and guidance <http://www.hse.gov.uk/pubns/priced/l114.pdf>
- L101 Confined spaces ACOP and guidance <http://www.hse.gov.uk/pubns/priced/l101.pdf>
- L113 LOLER ACOP and guidance <http://www.hse.gov.uk/pubns/priced/l113.pdf>
- INDG163 a brief guide to controlling risks in the workplace <http://www.hse.gov.uk/pubns/indg163.pdf>
- Waste23 Safe waste and recycling collection services <http://www.hse.gov.uk/pubns/waste23.pdf>
- Free office posture poster <http://osmond.uk.com/onlineforms/postureguidance/>

CDM 2015

The Construction (Design and Management) Regulations (CDM15) have been added to the statute books and will come into force on 6th April 2015 (<http://www.legislation.gov.uk/ukxi/2015/51/contents/made>). The draft guidance accompanying the Regulations has also been published (<http://www.hse.gov.uk/pubns/priced/draft-l153.pdf>).

The main changes from CDM07 are

- the replacement of the CDM Coordinator with the role of Principal Designer – so that the responsibility for health and safety coordination in the pre-construction phase is given to an existing member of the design team
- increased focus on the client and their role of setting and enforcing standards throughout the project

- changes to the assessment of competence, including organisational competence.

Although CDM 2015 comes into force on 6 April 2015, there are transitional arrangements in place that will run for six months from 6 April 2015 to 6 October 2015.

Case Law update

This issue focuses on cases successfully prosecuted by the HSE in January 2015 associated with guarding failures

Shepherd Neame (Britain's oldest brewery business) was prosecuted after a 21 year-old agency worker lost a finger in an unprotected machine. He had entered a fenced-off section around a running production machine, and was hosing down the area when he slipped. His left arm instinctively shot out as he tried to regain his balance, but his hand came into contact with one of the operating parts of the machine. When the worker pulled his arm back and managed to free his hand, he realised he had lost the top part of his index finger and crushed his thumb and middle finger. The fenced area around the machine was mostly protected with interlocks and lightguards. However, there

was a maintenance gate that wasn't interlocked. Since there was no automatic shut-off, the machine kept running when the worker went through. The company was fined **£10,000** and ordered to pay **£1,007** in costs

A Rutland company which manufactures children's bedroom furniture was fined after a machine operator suffered serious hand injuries. The company modified a portable dust extraction system using pipes and connections to secure a long flexible hose to the extractor's inlet, but the system regularly became blocked with wooden off-cuts. Workers attempted to unblock it but eventually one of them put his left hand into the opening, where the flexible and solid pipes joined, to try clear the blockage. His hand was drawn directly into the blades of the machine and he suffered

multiple finger fractures and dislocations and required a number of operations. The company was fined **£20,000** and ordered to pay **£4,449** in costs

A Leeds-based chocolate and fudge manufacturer was fined after an employee lost a thumb while cleaning an unguarded stirring machine. The worker, who was not fully trained and was cleaning the machine by herself for the first time, moved the stirrer using the control buttons. Her left thumb was sliced off as the stirrer moved, trapping it between the side of the vessel and the stirrer. Her thumb was surgically re-attached but will never function properly and being left-handed she has had to relearn how to write and has difficulties with everyday tasks. The company were fined **£7,000** and ordered to pay **£627** in costs

About Clwyd Associates...

We are a management consultancy, focusing on health and safety and SAP) based in the Midlands.

We employ consultants with at least 15 years practical experience backed up by recognised professional and academic qualifications - ensuring our clients receive first class service.



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- IOSH Working Safely – a one day course providing an introduction to hazard awareness and risk assessment
- IOSH Managing Safely – a course suitable for anyone with management responsibility, who needs to understand legal requirements and be aware of the practical tools that can be used to improve standards
- IOSH Safety for Senior Executives – for those who need to develop health and safety strategy for any organisation



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