



# Wilkins Safety Group

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## *Welcome to our latest Update E-Newsletter*

As ever, please feel free to share this with friends and colleagues. You will also find PDF versions of all our other newsletters on our website: [www.wilkinssafety.co.uk](http://www.wilkinssafety.co.uk) with lots more useful information and a wealth of leaflets covering Health and Safety topics.



This week, as you return from what we hope was a relaxing Easter break; we thought we would look at how you should approach health and safety, both as an employer and employee.

We also look at a couple of recent HSE cases for you to consider.

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## ***A Sensible approach to health and safety means.....***

A sensible approach to health and safety means focusing on the significant risks – those with potential to cause real harm and suffering - and avoiding wasting resources on every day and insignificant risks.

Health and safety is often used as an excuse to stop activities or disguise unpopular decisions - giving rise to myths and misunderstandings. **This guide is based on 3 simple questions** to support you in making decisions that are sensible and challenging those that give rise to myths:

- Is it really about health and safety?
- Is the decision proportionate to the level of risk?
- How do I challenge questionable decisions?

## ***Is it really about health and safety?***

Sometimes health and safety is used to justify a decision, when in reality there is no health and safety legislation that applies.

**Health and safety at work legislation applies to all employers.** The law is about protecting people at work – or those

affected by work activities. All workers are entitled to work in environments where risks to their health and safety are properly controlled – wherever they are working.

People who are affected by work activities will include, for example, members of the public who are walking along the pavement next to a building site. In situations like these, if there is concern about risks to these people arising from either the way work is organised; the level of supervision; or maintenance of equipment, then health and safety law is likely to apply.

## ***Is the decision proportionate to the level of risk - does it make sense?***

**Health and safety at work law is about reducing death, serious injury and ill health in workplaces.** It is about taking the necessary action to reduce significant risks arising from work - it is not about banning activities. It is important to be clear about what is a legal requirement

**Understanding what is the actual risk** involves considering the likelihood and consequences of something going wrong. This means thinking about:

- What type of incident is the decision or precaution intended to prevent?
- What injury or ill health could be caused?
- How likely is it to happen?

## **So let's consider a well recorded "Hanging basket" case**

A local council refused permission for hanging basket displays, blaming "health and safety".



### **What is the possible risk or cause of concern?**

Failure of fixings could cause hanging baskets to fall into the street and hit passers-by.

### **What level of injury is anticipated and how likely is it to arise?**

Minor injuries may arise if a basket falls onto someone. A basket would fall only if completely inappropriate fixings are used. The risk of a falling basket hitting a passer-by and causing serious injury is low.

### **How significant are the health and safety risks?**

Overall the risks are low.

### **What does sensible, proportionate risk control look like?**

For conventional hanging baskets of modest size and other simple lightweight floral decorations, all that is needed is the selection of suitable anchor points and a simple visual check to confirm suitability of fixings prior to installation.

**The key thing is to keep a sense of proportion and not to apply risk control measures in an overly cautious way.**

## ***How do I challenge questionable decisions?***

Sensible health and safety is about finding ways to enable activities to go ahead safely – not finding ways to stop them. If you are concerned about actions that appear disproportionate or a decision that does not make sense then why not challenge that decision directly?

In some cases, you will find the source for your employer's decision or procedures come from

- legal requirements,
- manufacturers' guidance,
- the company's policies or

- advice from an outside adviser such as [The Wilkins Safety Group](#).

This will help you understand the decision and identify whether it is based on facts, whether there is any flexibility in what the law or guidance says is needed, or whether it's just based on myths and misunderstanding.

If on reflection you are satisfied that the right action has been taken and properly communicated, no further action is needed. Where a decision is questionable you should consider the following:

**The precautions are sensible – but were not properly explained.** Consider offering feedback to the decision-makers to explain what could be done differently to ensure that reasons for decisions are properly explained. Taking action to communicate effectively will help avoid myths and misunderstanding.

**The precautions appear disproportionately high for the level of risk.** Talk to staff and colleagues about more proportionate or specific precautions that make sense

**The risk is not managed** Raise concerns with the appropriate Director or manager – or the company's health and safety advisers.

Remember that the health and safety controls are supposed to ensure the work can be done safely. If you are not sure if the right controls are in place, be you the employer or an employee. **Seek advice before you proceed**

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## ***Portland stone firm fined for worker's injury***

A stone quarrying company in Portland has been fined for safety breaches after a worker fell more than four metres onto a concrete floor, suffering a broken hip and head injuries, while replacing roof lights on a fragile roof.

Weymouth Magistrates' Court heard yesterday (14 April) that the 50-year-old employee, from Weymouth, who does not wish to be identified, was on the fragile roof of Portland Stone Firm's main depot in Easton Street when the incident happened on 16 August 2012.

He was using a ladder and the roof purlins to gain access to the work site because the cherry picker he usually used had been removed from the site by the company.

While replacing a light, he stepped back off the roof purlins and fell 4.5 metres through the fragile roof and onto the concrete floor inside the building. He sustained a large gash to the back of his head and broke part of his hip bone. He had to undergo a number of hip operations and later lost his job with the company.

An investigation by the Health and Safety Executive (HSE) found that the planning and supervision of the work was inadequate, suitable equipment was not provided and Portland Stone Firms Ltd failed to ensure a safe system of work.

HSE told the court that safety measures such as working platforms fitted with guardrails, proper crawling boards, edge protection around the perimeter of the roof, safety nets under the roof or a harness system to mitigate any fall should have been put in place by the company.

Portland Stone Firms Limited of Easton Street, Portland, Dorset pleaded guilty to two breaches of health and safety law including a breach of the Work at Height Regulations 2005. The company was fined a total of £20,000 and ordered to pay £18,992 costs.

Speaking after the hearing, HSE Inspector Mehtaab Hamid said:

“Falling from height is one of the most frequent causes of deaths and injuries by workers. The Work at Height Regulations exist to protect people from serious injury and employers who are prepared to put their workers’ lives at risk by breaching them will be prosecuted. “Employers must ensure that all work at height, particularly work on fragile roofs, is properly planned and organised and that employees are protected from falls. In this case, Portland Stone Firms neglected to implement basic safety measures to minimise the risk of falls and failed in its duty to ensure the health and safety of its employee.

“Employers have a legal duty to manage safety and failing to do so too often ends in tragedy.”

Further information about working safely at height can be found on the Wilkins Safety Group website at [http://www.wilkinssafety.co.uk/advice/our\\_leaflets.html](http://www.wilkinssafety.co.uk/advice/our_leaflets.html)

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## ***Council in court after death of pensioner.....***

Glasgow City Council has been fined £20,000 following the death of a pensioner after he was struck by a reversing refuse vehicle in the city centre.

Malcolm McCulloch, 71, a retired dock worker from Glasgow, was walking across Holm Street, Glasgow, when he was struck by the reversing lorry on 10 August 2012. He suffered severe chest and pelvic injuries and later died in hospital. The incident was investigated by the Health and Safety Executive (HSE) and a prosecution brought against the council for serious safety failings.

Glasgow Sheriff Court heard today (11 April) that the council carried out its own commercial glass collection. As the reversing of refuse collection vehicles is a hazardous activity, the council had introduced a program of reversing assistant training between March and December 2011. A reversing assistant’s role is to stand outside the vehicle and guide the driver in situations where reversing manoeuvres cannot be avoided.

The driver of the vehicle on the date of the incident was employed through an agency, rather than as a direct employee of the council, and had worked on the glass collection vehicle since March 2012. A labourer employed by the council travelled with the driver, getting out at stops to empty the glass bins.

However, neither the driver nor the labourer involved in this incident had undergone reversing assistant training. The council had failed to ensure that agency workers received the training and had also failed to identify that its own employee had not received the training.

The court was told that on the date of the incident, at around 11am, the driver reversed the lorry from Wellington Street, into and along Holm Street.

Several cars were parked in Holm Street at the time. The driver checked his mirrors, turned on the vehicle’s flashing beacon and reversing siren, and reversed down the street while his colleague sat in the passenger seat.

At this time, Mr McCulloch was walking from Wellington Street into and along Holm Street, where he walked out between some parked cars to cross the road. However, neither the driver nor his colleague saw him leaving the pavement. He was struck by the lorry, fell underneath the vehicle and was dragged some way along the road as the

driver continued to reverse, unaware of what had happened.

The driver only saw Mr McCulloch lying in the road when he stopped the vehicle and got out of his cab. Mr McCulloch was taken to hospital but later died as a result of his injuries.

An inspection of the vehicle by HSE mechanical specialists found no defects, and its warning beacon and siren were working correctly. However, there was a blind spot, around 2.2 metres wide, that was not covered by the CCTV camera or wing mirrors. Accordingly neither the driver nor the labourer would have seen Mr McCulloch stepping into the path of the reversing lorry. A reversing assistant should have been used to guide the driver while reversing and to prevent pedestrians such as Mr McCulloch from being able to cross the road as the lorry reversed.

Glasgow City Council, of City Chambers, Glasgow, was fined £20,000 after pleading guilty to breaching Section 3(1) of the Health and Safety at Work etc Act 1974.

Following the case, HSE Inspector Eve Macready, said:

“It appears the collision resulted from the lorry reversing along Holm Street and Mr McCulloch walking on the road while a lorry was reversing towards him.

“Our investigation has found there was a blind spot for the driver even when using the camera, but if a reversing assistant had been used this would have prevented the incident.

“Reversing vehicles poses one of the biggest hazards in the refuse collection industry and there is plenty of guidance available on how to reduce the risks. The fact that the driver and his colleague had not been trained meant they did not have the skills necessary and were not fully aware of the need to use a reversing assistant – as a result Mr McCulloch has needlessly lost his life.”

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For further information about health and safety in your industry, please go to <http://www.wilkinssafety.co.uk>

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If you have any queries on any health and safety matter, please contact Jon Wilkins on [01458 253682](tel:01458253682) or by email on [jon@wilkinssafety.co.uk](mailto:jon@wilkinssafety.co.uk)



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