



# Wilkins Safety Group

**Monday, 4<sup>th</sup> August 2014**

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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.



**All too often in today's society, people seem intent on blaming somebody else when something goes wrong.**

Media coverage of health and safety accidents would have you believe two untruths:

1. There is no such thing as a genuine, unpreventable accident, and
2. Employers are at fault for all workplace-related incidents and accidents.

However; whilst the employer has overall responsibility for health and safety at work they are not always at fault for problems that occur. **This article looks at the responsibility of the employee.**

## **We also have 2 recent HSE cases for you to look at and consider:**

- William Batten (66), trading as Bill Batten Concrete Cutting and Demolition Service, **was injured when he removed key timber supports** at the corners of the roof, destabilising it and causing it to collapse on top of him.
- **A LORRY driver will never walk again** after he was crushed between two lorries in the haulage yard where he worked.

## **Do you have any comments about this subject?**

If you do; or if you would like us to cover any particular subject in our newsletter, please let us know either by commenting on our [Facebook page](#) or send us an email at [info@wilkinssafety.co.uk](mailto:info@wilkinssafety.co.uk)

# *Accidents in the Workplace – Employers at fault?*

Media coverage of health and safety accidents in the Workplace would have you believe two untruths:

1. There is no such thing as a genuine, unpreventable accident, and
2. Employers are at fault for all workplace-related incidents and accidents.

However genuine unforeseeable accidents really do happen from time to time, and **employers are *not* always at fault for problems that occur at work.**

## *Employees have responsibilities too*

Although the main burden of responsibility for health and safety lies with the employer, every single employee has their part to play. According to the Health and Safety Executive (HSE) there are **five key duties** that each of your workers needs to carry out.

### *1. To maintain personal safety*

From the moment your employees arrive at work they are responsible for using their own common sense and training to maintain their personal safety (**Section 7 of The Health & Safety at Work Etc. Act 1974**). But sadly too many operatives forget this and take stupid risks, *(see the photo above)*. Equally important is the obligation to protect the welfare of their colleagues and the general public.

Obviously your employees need to have been properly trained to ensure they can do their jobs safely. This will include the relevant safety training dependent on their duties as well as regular reminders in the form of tool-box talks, risk assessments and method statements. **But after that *they* shoulder much of the responsibility** for working safely within the guidelines you set.

### *2. To help you meet obligations*



As a responsible employer you should already be aware of your company's health and safety obligations and have instituted programs and plans to ensure you meet them. These plans will of course involve your employees who will need to do their part to ensure equipment and conditions are safe.

If you look at this photo you will see a dangerous untidy site.

**It is the Employer's duty** *to ensure the working area is safe to work in and that people are able to enter and leave safely.* However it is the employees and self-employed that have created this mess.

**Failure to carry out these duties could result in an accident for which they, the employees, will be at fault.**



### ***3. To follow instructions***

Your employees and any sub-contractors or self-employed, are duty bound to follow any instructions and training that your business has provided to improve health and safety. As a responsible employer you will have written your risk assessments and method statements. From these you will have issued your instructions and made your workforce aware of the known dangers and of the safety procedures in place to keep them safe as long as they follow them.

If employees and/or sub-contractors fail to follow instructions, they could be personally liable for any injuries or harm caused by their actions – even if they are the injured party! See the first case in this week's newsletter - ***Building sub-contractor's safety neglect led to his own injuries***

### ***4. To warn of dangers***

In the event that one of your employees identifies a situation that presents an immediate health and safety risk, they are duty-bound to report it to their line manager or your company's responsible person. This then allows you to re-assess any risk and implement measures that prevent accidents.



Employees need to be reminded of this responsibility, and your business should encourage workers to come forward whenever they spot a problem.

Do you have a user friendly system that enables your employees to report any hazards or risks that they may see in confidence? If you do, why not tell others about it by starting a conversation on our [Facebook page](#).

### ***5. To warn of failings***

Very similar to the responsibility to report dangers, employees also have a duty to make you aware of failings in your current health and safety provisions. This means that employees need to understand current provisions and always stay alert for ways by they can be improved.

Again your employees need to be empowered to give feedback whenever necessary. Also, if your employees have been able to give their input into your method statements and safety procedures, they are more likely to follow them and, of course, they cannot claim ignorance if they don't.

## ***And now it's your turn***

How does your business make employees aware of their health and safety responsibilities?

Do you have any good tips to share?

Let us know either by commenting on our [Facebook page](#) or send us an email at [info@wilkinssafety.co.uk](mailto:info@wilkinssafety.co.uk)

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**Now to the latest HSE cases:**

## ***Building sub-contractor's safety neglect led to his own injuries***

**A Newton Abbot building sub-contractor, who suffered a fractured spine while demolishing a temporary school classroom near Exmouth in Devon, has been fined for safety failings that could have also put the safety of others in danger.**

William Batten (66), trading as Bill Batten Concrete Cutting and Demolition Service, was injured when he removed key timber supports at the corners of the roof, destabilising it and causing it to collapse on top of him. The collapse was witnessed by schoolchildren in a nearby playground on their lunch break.



Mr Batten suffered a fractured vertebrae and neck injury. He was hospitalised for a week but has since returned to work undertaking light duties.

An investigation by the Health and Safety Executive (HSE) found Mr Batten had started work he was not supposed to. It identified that the roof of the temporary classroom had been supported by timber in each corner. Steel fixtures had been inserted to add additional structural support for the windows, but not the roof.

North and East Devon Magistrates' heard today (29 July) that Mr Batten's firm had been contracted to demolish two buildings at Lymestone Church of England Primary School.

A 'soft strip' of the temporary classroom took place on 11 June 2013 and demolition of the main structure by mechanical means was to be carried out on the following days when Mr Batten's son, business partner and planner of the work, returned from leave. A further risk assessment and method statement was to also be submitted prior to the structural demolition going ahead.

However, after Mr Batten had finished the 'soft strip' with two labourers, he decided to undertake further stripping work, including the removal of the timber supports to the corners and cladding.

Mr Batten wrongly assumed that steel stanchions supporting the windows were holding up the roof when in fact they were not. When the wooden struts to the corners of the building were removed, the roof became unstable and collapsed. The two employees narrowly escaped harm but Mr Batten, was trapped underneath the roof for several hours.

William Melvin Batten, trading as Bill Batten Concrete Cutting and Demolition Service, of Exeter Road, Kingsteignton, Devon, was fined £500 and ordered to pay costs of £868.90 after pleading guilty to breaching Regulation 29(1) of the Construction (Design and Management) Regulations 2007.

Speaking after sentencing HSE inspector James Powell, said:

*"William Batten failed to ensure the demolition of the temporary classroom was carried out without presenting a danger to anyone, including himself and two employees. The work had been properly planned, by his son and partner, in advance and had the work been carried out in that manner, this incident would not have happened.*

*"He had not demolished a classroom like this one before but he was aware that he was only to undertake a soft-strip and that he knew the main structure was going to be brought down with a machine at a later date – once the inside had been cleared.*

*"But after stripping the internal fixtures, Mr Batten continued to strip the building, wrongly assuming that the steel fixtures supporting the windows were holding up the roof. The two other employees on site at the time were extremely lucky to have escaped with no injuries.*



*“Demolition, dismantling and structural alteration are high risk activities which require careful planning and execution by trained demolition operatives under the supervision of a competent person.”*

Information on construction site safety and demolition work is available from [The Wilkins Safety Group](#) on 01458 253682 or email [info@wilkinssafety.co.uk](mailto:info@wilkinssafety.co.uk)

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## ***Haulage companies in court after driver paralysed***

Two haulage companies have been sentenced for safety failings after an HGV driver was left paralysed from the chest down following an incident at a transport yard in Sandy, Bedfordshire.

The 51-year-old man, from St Ives, Cambridgeshire, was crushed as he was closing the rear doors of his HGV when another lorry reversed into the area he was working in at the yard on Tyne Road, which was being rented by his employers H & M Distribution Ltd.

The worker, who does not wish to be named, suffered life-changing injuries and will be unable to work again. **As well as his paralysis, he suffered a brain injury which has affected his sight and has lost most of the use of his arms.**

The incident was investigated by the Health and Safety Executive (HSE), which today (29 July) prosecuted H & M Distribution Ltd and H E Payne Transport Ltd – the owners of the yard.

The court heard that before setting out on a delivery, the driver pulled his loaded HGV forward of the loading bay so he could close the rear doors. As he was doing so, a curtain-sided lorry reversed alongside the bay into the area he was working in, crushing him between the two vehicles.



**Luton Magistrates' Court**

HSE's investigation revealed that despite both companies being road hauliers, there was no documented procedure for vehicle movements in the transport yard. An Improvement Notice was served on both companies requiring them to organise movements in the yard so pedestrians and vehicles could circulate in a safe manner, which was complied with.

H & M Distribution Ltd of Sankey Valley Industrial Estate, Newton-le-Willows, was fined a total of £150,000 and ordered to pay costs of £13,996 after pleading guilty to breaching Section 2(1) of the Health and Safety at Work Act 1974.

H E Payne Transport Ltd of The Lane, Wyboston, Bedfordshire, was fined a total of £100,000 and ordered to pay costs of £13,996 after pleading guilty to breaching Section 3(1) of the Health and Safety at Work Act 1974.

After the case, HSE Inspector Emma Rowlands said:

*“This was a horrific and entirely preventable injury caused by the shared failure of both companies to recognise the hazards arising from loading operations at the transport yard and their duty to protect the people working there.*

*“Our investigation found that there was no documented procedure which allowed workplace transport and pedestrians to circulate the site in safety, and a dangerous lack of segregation between vehicles and workers on foot. Tragically, as a result an employee is now paralysed for life.”*

If you need advice about your workplace transport procedures contact [The Wilkins Safety Group](#) on 01458 253682 or email [info@wilkinssafety.co.uk](mailto:info@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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