



# Wilkins Safety Group

**Tuesday, 27<sup>th</sup> May 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.

This week we continue our look at health issues, but this week we do not look at any illness but instead look at **Pregnancy** because we have recently been asked about this by some clients

**We also have, as usual, a couple of recent HSE cases for you to consider. These look at:**

- An excavator struck and ruptured the pipework at a construction site in Norton Fitzwarren, near Taunton, on 11 October 2012, because the driver was completely unaware it was beneath him as he dug a trench.
- A Suffolk building contractor has been fined after it exposed workers and homeowners to potentially fatal asbestos

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## ***Is it Safe to be Pregnant at Work?***

**Pregnancy is not an illness! But it does create issues in the workplace that need to be addressed.**

**As an employer, you have a duty of care under the Health and Safety at Work Act to assess the risks to pregnant women within your workplace.**

But often, a newly-expecting mum-to-be won't feel ready to share their condition with their employers and colleagues straight away. Some even wait until their pregnancy becomes difficult to conceal.



And often their reasons for this are legitimate - previous miscarriages, relevant health conditions and marital status all have a bearing. Some women worry that their pregnancy will alter their employer and colleagues' perception of them.

Since the advent of recession, concerns have even been raised that some unscrupulous employers are using the downturn as a reason to get rid of pregnant employees and those on maternity leave.

So clearly there's a conflict of interests: on the one hand, women are entitled to their privacy. On the other, you can't assess risks when you are unaware of their condition.

The HR department will say they must be notified to ensure eligibility for all maternity rights. However, the picture looks different when viewed from the health and safety angle.

If the employer is not informed that an employee is pregnant, it makes it impossible to carry out a risk assessment that takes into account her condition.

The factors you'll need to consider might include workplace stress, manual handling, appropriate seating and working areas. But if you remain in ignorance of an employee being pregnant, you can't fulfil your legal responsibilities.

### ***So what should you do?***

There's a two stage process laid down by the legislation, because, according to the Government, all women are considered to be vulnerable during pregnancy.

- Stage 1 is a generic risk assessment - relating to all women of child-bearing age generally in the workplace.
- Stage 2 is a specific risk assessment, which relates to the woman concerned and examines the particular issues that individual has. These may include health issues such as pre-eclampsia, long term existing conditions, history of miscarriages etc. - plus the work she is expected to carry out.

Taking these legal requirements into consideration, the only way to ensure pregnant staff are looked after appropriately is to put the requirement to inform the employer as soon as a pregnancy is known into your contracts of employment.

### ***This is not an invasion of privacy. It is simply common sense.***

Nobody wants to put an unborn child at risk. The majority of employers will see this as a moral requirement, not simply a response to legislation.

It's important that the wishes of the mother-to-be are treated with respect and, if she wishes to keep her situation private, any related activities are carried out with discretion. This may not be possible in some situations as colleagues are bound to ask questions if someone suddenly is taken off certain duties.

So organisations need to specify (in the staff handbook or the equivalent) that women who are pregnant need to notify their employer as soon as they are aware of their situation. This will enable you to manage both their health and safety and that of their unborn child.

# ***Assessing the Risks to Pregnant Workers:***

## ***Pregnancy in the workplace.***

*Some hazards in the workplace may affect the health and safety of new and expectant mothers and of their children. The Company is required by law to take particular account of any risks to new and expectant mothers in the work place.*

*Under the Management of Health and Safety At Work Regulations (Amended 1999), The employee has a duty to inform the employer in writing that they are pregnant.*

*When you tell Human Resources that you are pregnant, your manager will be asked to liaise with you to conduct a risk assessment, to ensure that any hazards are identified and remedial action can be taken.*

## ***Self Assessment***

*We recommend that you inform Human Resources or your immediate manager; that you are pregnant as soon as you are able to, so that we can arrange for you to have a risk assessment conducted at the earliest opportunity.*

*However, we fully understand that you may wish to wait for a while before you tell your colleagues that you are pregnant.*

*Having a risk assessment carried out early will help you assess potential hazards for yourself in the meantime. We recommend you do this as soon as possible, since the foetus is particularly vulnerable in the early stages of pregnancy.*

## ***Guidelines for Managers***

### ***The Legal Bit***

Assessing the Risks - Your Responsibility as a Manager

If a member of your staff tells Human Resources that they are pregnant, they should contact you to ask that you conduct a risk assessment for that employee, to ensure that any hazards are identified and remedial action can be taken.

Similarly, if a member of your staff tells you they are pregnant, please ask them to inform Human Resources.

## ***Conducting the Assessment***

Please ensure you (or your nominated Health and Safety Representative) complete risk assessment form with the member of staff. As the manager, you need to sign the form confirming the assessment has been carried out  even if no risks are identified.

The form has also been designed so that a pregnant employee can assess the risks for herself before she may wish to tell anyone about the pregnancy the foetus is particularly vulnerable to certain risks in the early stages of pregnancy.

## ***What to do if a risk is identified?***

If it is necessary to remove a new or expectant mother from a significant risk, the following steps explain levels of action that may be required, and the legislation that requires that action.

**Removal from Risk:**

	<b>Action</b>	<b>Legislation</b>	<b>Comments</b>
<b>Step 1</b>	Adjust working conditions and/or hours of work temporarily.	Management of Health and Safety at Work Regulations 1999	
<b>Step 2</b>	If step 1 is not reasonable or would not avoid the risk, offer suitable alternative work, if any is available. Work must be: Both suitable and appropriate for her to do in the circumstances, and; On terms and conditions no less favourable than her normal terms and conditions	Employment Protection (Consolidation) Act 1978	An employee is entitled to make a complaint to an Employment Tribunal if there is suitable work available which her employer has failed to offer to her before suspending her from work on maternity grounds.
<b>Step 3</b>	If suitable alternative work cannot be provided, then the employee must be suspended from work.	Management of Health and Safety at Work Regulations 1999 Employment Protection (Consolidation) Act 1978	Suspension is on full pay, unless an offer of suitable alternative work was unreasonably refused.
<b>Night Work</b>			
<b>Step 1</b>	If an employee has a medical certificate stating that night work could affect her health or safety, she has a right to be offered suitable alternative daytime work on terms and conditions no less favourable than her normal terms and conditions.	Employment Protection (Consolidation) Act 1978	
<b>Step 2</b>	If it is not possible to offer the Employee suitable alternative daytime work, then she must be suspended from work.	Management of Health and Safety at Work Regulations 1999 Employment Protection (Consolidation) Act 1978	Suspension is on full pay (see step 3 above)

Risk Assessments must be undertaken at three monthly intervals during the working period of the pregnant person. If you require assistance or copy of a risk assessment, drop an email to [info@wilkinssafety.co.uk](mailto:info@wilkinssafety.co.uk)

## ***Developer fined after gas leak leads to railway closure in Taunton***



Commuters endured two hours of rail misery through a forced line closure because a leading housing developer failed to advise ground workers on the presence of an underground gas main, a court has heard.

An excavator struck and ruptured the pipework at a construction site in **Norton Fitzwarren, near Taunton**, on 11 October 2012, because the driver was completely unaware it was beneath him as he dug a trench.

It caused the closure of the nearby main railway line to the South West for emergency repairs, and today (19 May) landed BDW Trading Ltd, trading as Barratt Homes, in court.

Taunton magistrates were told the Health and Safety Executive (HSE) investigated the incident at the site of the Old Cider Works, in Station Road, and found that BDW Trading Ltd had failed to properly plan the work.

The company had neglected to contact the utility owners to obtain up-to-date plans of the site. As a result safe digging techniques were not being used because no-one on site had reason to believe they were working anywhere near a gas pipe.

The court heard how a consortium of house builders was engaged in a long-term development project at the site, and that several different sub-contractors had worked there over a number of years prior to work stopping in 2008 due to the economic climate.

Two gas mains operated by separate supply companies run across the site and in 2009 one of these was renewed and re-routed. When building work recommenced in 2012, BDW Trading Ltd supplied its groundwork contractors with site maps that did not cover the entire site, and that did not show the new route of the gas main.

BDW Trading Ltd, of Bardon Hill, Leicestershire was fined £16,000 and ordered to pay £2,500 in costs after pleading guilty to breaching Regulation 34(3) of the Construction (Design & Management) Regulations 2007.

Speaking after the hearing, HSE Inspector Sue Adsett said:

*“More than 11,000 cubic metres of gas escaped as a result of this incident, one of the largest releases of gas in the South West in recent years. It was sheer luck no-one was injured. As it was, the incident caused huge disruption to rail services and passengers.*

*“It could so easily have been prevented if BDW Trading Ltd had obtained up-to-date plans from the gas supplier after pipes had been relocated on their site in 2009, or upon restarting work at the site in 2012.*

*“BDW Trading Ltd’s fundamental error was to start work in the area without adequate gas utility drawings. House builders should be especially careful when they start working on a site where construction work has stopped and started because vital information may have been lost.”*

Further information and guidance on commissioning, planning, managing and carrying out work on or near underground services is available from The Wilkins Safety Group: [www.wilkinssafety.co.uk](http://www.wilkinssafety.co.uk) **01458 253682** or [info@wilkinssafety.co.uk](mailto:info@wilkinssafety.co.uk)

## ***Suffolk firm in court after homeowners exposed to asbestos***

**A Suffolk building contractor has been fined after it exposed workers and homeowners to potentially fatal asbestos material during work on a garage extension at a home in Ipswich.**

Columbus Building Contractors Ltd was hired by the homeowners to carry out a single-storey front garage extension and a kitchen conversion to the property.

Ipswich Magistrates' Court heard today (20 May) that the garage, an integral part of the home, had an asbestos insulating board (AIB) ceiling that formed a fire break between it and the rest of the house. During the conversion work between 8 May and 2 August 2012, the boards were removed, broken up and left on the homeowners' front lawn.



The debris was then placed into open bags before one of the homeowners transported it to the local tip in his car where the possibility of asbestos was identified.

The Health and Safety Executive (HSE) investigated and prosecuted the company for breaching asbestos safety regulations.

The court was told a licensed contractor had to undertake waste removal of the remaining asbestos material and conduct an environmental clean under fully-controlled conditions.

Columbus Building Contractors Ltd, of Crofton Road, Ipswich, Suffolk, was fined a total of £10,000 and ordered to pay £6,000 in costs after pleading guilty to breaching regulations 8(1) and 11(1)(a) of the Control of Asbestos Regulations 2012.

Speaking after the hearing, HSE Inspector Adam Hills said:

*“This is an incident that was entirely preventable. Columbus Building Contractors had worked with this type of material before and had asbestos knowledge. They questioned the presence of asbestos materials in the ceiling but made no efforts to obtain an asbestos survey or take samples for analysis to establish if asbestos was contained within the ceiling.*

*“After removal, the asbestos material was simply left on the front lawn before being bagged in open sacks and transported to the local tip by the homeowner. Both the workers and homeowner would have been exposed to a significant amount of asbestos fibres during these works.*

*“It is absolutely essential that assumptions are not made when dealing with suspected asbestos materials. If in doubt, get it checked by a professional before starting any work.*

*“The dangers of exposure are well-known in the industry. There are long-term health risks associated with inhalation of asbestos fibres including lung cancer and mesothelioma.”*

Further information on how to reduce the risk of asbestos can be found on The Wilkins Safety Group website at <http://www.wilkinssafety.co.uk/pdf/whss/asbestos.pdf>

**Please note** that this week's main article was in response to questions asked by some of our clients. If you have a topic that you would like us to cover one week, please let us know!

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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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