

## April 2022 - March 2023

### David Horner and Ian Campbell - 12 April 2022

David Horner and Ian Campbell were fined £2,500 and £1,500 respectively for multiple offences under gas safety legislation. David Horner was also fined for failing to comply with an earlier prohibition notice.

The HSENI investigation followed notification that David Horner had been conducting gas work despite being suspended as a gas engineer from the Gas Safe Register. It was found that between February 2017 and October 2017, David Horner completed multiple gas safety checks and a gas boiler installation at various residential properties within the Greater Belfast area. The investigation also found that David Horner conducted gas work despite having been prohibited from carrying out such work following the service of a prohibition notice in June 2017 by an HSENI Inspector.

A total of 34 gas safe checks were sub-contracted to him by Ian Campbell, who had initially failed to check and ensure that David Horner was a registered Gas Safe engineer before any gas work commenced.

Breaches and fines for David Horner were as follows:

- a) Article 5(2) of the Health and Safety at Work (NI) Order 1978: fine £500
- b) Regulation 3(7) of the Gas Safety (Installation and Use) Regulations (NI) 2004: fine £500
- c) Regulation 3(3) of the Gas Safety (Installation and Use) Regulations (NI) 2004: fine £500
- d) Article 31(1)(g) of the Health and Safety at Work (NI) Order 1978: fine £500
- e) Regulation 27(5) of the Gas Safety (Installation and Use) Regulations (NI) 2004: fine £500

Breaches and fines for Ian Campbell trading as Ian Campbell Gas Services are as follows:

- a) Article 5(2) of the Health and Safety at Work (NI) Order 1978: fine £750
- b) Regulation 4 of the Gas Safety (Installation and Use) Regulations (NI) 2004: fine £750

### NK Coatings Limited - 21 June 2022

This prosecution arose following a HSENI investigation into an incident that occurred on 23 September 2020 when a metal storage rack fell from the forks of a counterbalance fork-lift truck, resulting in fatal injuries to an employee, aged 56.

The employee, a metal finisher, was assisting three other employees to turn a large metal structure which was being supported on the forks of a fork-lift truck. The metal racking subsequently fell from the forks, striking the employee. The investigation found that a risk assessment had not been completed for the activity and the method used to turn the structure was unsafe placing workers at risk. A prohibition notice was served on the Company by a Health and Safety Inspector following the incident.

Breaches and fines for NK Coatings Limited are as follows:

- a) Article 4 of the Health and Safety at Work (Northern Ireland) Order 1978: fine £120,000.

## Leslie Wright & Sons and Miskimmin Limited - 7 July 2022

Leslie Wright, a Newtownards based demolition contractor was fined a total of £90,000. In addition, Mr Wright was given a nine-month custodial sentence, suspended for two years. He was also disqualified as a director for 10 years. H. Miskimmin Limited, a construction company based in Donaghadee, was fined £45,000.

The incident occurred during the re-development of an old factory site at Comber Road Newtownards. Demolition, site clearance and removal of asbestos materials was contracted to Leslie Wright and H. Miskimmin Limited.

On 28th May 2014, Mr Raymond Morgan, aged 43, fell five metres through the roof of the dis-used factory and tragically passed away from his injuries the following day.

Breaches and fines for Leslie Wright & Sons are as follows:

- a) Article 4(1) of the Health and Safety at Work (Northern Ireland) Order 1978, fine £30,000.
- b) Article 5(1) of the Health and Safety at Work (Northern Ireland) Order 1978, fine £60,000.
- c) Nine-month custodial sentence, suspended for two years.

Breaches and fines for Miskimmin Limited are as follows:

Article 5(1) of the Health and Safety at Work (Northern Ireland) Order 1978, fine £45,000.

## M Care Limited - 22 September 2022

This prosecution arose following an investigation into a choking incident that occurred on 21 November 2016 at Ringdufferin Nursing Home in Killyleagh, County Down. Mr Edward McCullough, an 89-year-old resident in the nursing home, choked and subsequently died while eating a pancake. Mr McCullough was on a pureed diet as he had difficulties swallowing and was at risk of choking.

The incident took place while Mr McCullough was visiting the care home's activity room where a self-employed activities manager was making pancakes for the residents of the care home. The investigation focussed on a breakdown in communication surrounding the dietary needs of Mr McCullough. M Care Limited, as an employer, failed to ensure that reasonably practicable steps were taken to ensure the safety of Mr McCullough.

Breaches and fines were as follows:

Article 5 of the Health and Safety at Work (Northern Ireland) Order 1978: fine £20,000.

## Jerome McCaffrey - 17 October 2022

This prosecution followed an investigation by HSENI into the circumstances of the death of a 57 year old male. On 27 November 2020, Jerome McCaffrey was overseeing the replacement of perspex roof lights at a farm building in Camlough, Newry when the deceased fell through the fragile roof structure and died at the incident scene from his injuries.

The investigation found that on the day of the incident, the 57 year old attended the farm to meet with a family member who was also working at the construction site. He subsequently accessed the roof of the farm building and a short time later fell through an existing roof light.

In this case, no control measures were in place to prevent falls from height or to avoid working on the fragile roof structure. Following the incident, health and safety inspectors attended the incident scene and a prohibition notice was served that prohibited any further work at height activities from continuing until appropriate safety measures were put in place.

Breaches and fines were as follows:

Article 5(2) of the Health and Safety at Work (Northern Ireland) Order 1978, fine £2,500.

## J Wadsworth & P McMullan - 18 October 2022

This prosecution was for breaches of health and safety legislation against two self-employed construction contractors, James (Gary) Wadsworth from Lisburn, and Paul McMullan from Dundrod. The prosecution followed the death in 2020 of James (Jim) Carlisle, a 58-year-old, self-employed contractor who fell from height during a re-roofing project.

The HSENI investigation established that all three men were working on the replacement of a shed roof at a farm in Hillsborough on 1 September 2020. During the construction work, Mr Carlisle fell approximately 4.4 metres from an unguarded platform and tragically died at the scene.

The platform consisted of three timber planks spanning an internal shed wall and a cage supported by a telescopic handler. There were no control measures in place to prevent falls from height during the construction work and the method of work employed was inherently unsafe.

Breaches and fines were as follows:

For James (Gary) Wadsworth:

Article 5(2) of the Health and Safety at Work (Northern Ireland) Order 1978, fine £1,000.

For Paul McMullan:

Article 5(2) of the Health and Safety at Work (Northern Ireland) Order 1978, fine £1,000.

## **Flintridge Resources Limited - 18 November 2022**

This prosecution of Flintridge Resources Limited, the operator of Cavanacaw Mine in Omagh was for Health and Safety failings and were fined £120,000.

The case arose when in July 2018, mine employees were exposed to risk as a result of a fall of rocks from the roof of an underground roadway within the mine. The unstable portion then migrated to the surface causing an inrush of water to enter and flood a portion of the mine, further exposing employees to the risk of drowning.

Breaches and fines for Flintridge Resources Limited are as follows:

Article 4(1) of the Health and Safety at Work (Northern Ireland) Order 1978, fine £120,000.

## **James Callaghan - 13 December 2022**

This prosecution follows the death of a self-employed roofing contractor, who fell from height during the re-roofing of an outbuilding on a County Fermanagh farm.

The HSENI investigation found that the self-employed contractor died from his injuries after falling over three metres onto a concrete floor during construction work that took place on 15 May 2020. At the time of the incident, two contractors were walking across the roof structure when a wooden purlin broke causing both men to fall. The investigation determined that no appropriate measures were put in place to prevent falls from height during the construction work.

Breaches and fines were as follows:

Article 5(2) of the Health and Safety at Work (Northern Ireland) Order 1978: fine £1,000.

## **BC Plumbing and Heating Ltd - 17 January 2023**

This case arose from health and safety failings between 2016 to 2018 that led to dangerous gas installations in several new build domestic properties at sites in County Antrim and County Londonderry and the company was fined a total of £12,000 for failing to ensure gas work was carried out in a safe manner and in accordance with appropriate standards.

The investigation by HSENI focussed on the installation of corrugated stainless steel tubing (CSST) at the new housing developments. CSST although commonly used in the gas industry has specific installation requirements which must be followed to ensure gas installations are safe.

The method of installation of the pipework was unsafe and not in accordance with the manufacturer's installation requirements. In several cases, gas installations were classified as 'immediately dangerous' due to the increased risk of gas leaks. Appropriate remedial action was taken to ensure each of the installations were made safe.

Breaches and fines were as follows:

a) Eight breaches of Article 5(1) of the Health and Safety at Work (Northern Ireland) Order 1978: fine £6000.

b) Eight breaches of Regulation 5(3) of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004: fine £6000.

## John Thompson and Sons Ltd - 19 January 2023

This prosecution arose from an investigation following an incident on 21 December 2019 that resulted in an agency worker sustaining life changing injuries.

The HSENI investigation found that the worker was carrying out maintenance on a grain roller machine in an attempt to clear a blockage when his right hand was drawn into two counter-rotating rollers. The incident caused severe crush injuries to his hand which later had to be amputated above the wrist.

Machinery guards can take several forms but where practicable, fixed enclosing guards should be used. In some cases, regular access to dangerous parts of machines may be required and other guard types such as interlocking guards may be more appropriate.

Breaches and fines were as follows:

- a) Article 4(1) of the Health and Safety at Work (Northern Ireland) Order 1978: fine £20,000.
- b) Article 5(1) of the Health and Safety at Work (Northern Ireland) Order 1978: fine £20,000.

## Gordon Brown, Jamie Loane, C&V Loane Ltd - 15 February 2023

The investigation followed the workplace fatality of Mr Neil Graham, a 17-year-old part-time engineering student. The tragic death occurred at the premises of Gordon Brown Agricultural Engineering, Enniskillen. Gordon Brown the owner of the business, and Neil were working on repairs to a tractor owned by C&V Loane Limited of Kesh. Neil was completing his work placement with Gordon Brown.

While working underneath the tractor, Neil was fatally crushed by the forward movement of the back right wheel after Gordon Brown started the vehicle. The HSENI investigation found that a safety feature to prevent the vehicle being started while in-gear had been by-passed sometime prior to it being brought in for repair. An inspection pit was available in the workshop, from where the tractor could have been examined safely from below, however, it was not used at the time.

Gordon Brown was fined for failing to ensure the safety of his employee, and for failing to implement a safe system while working under the tractor. Jamie Loane, a director and employee of C&V Loane Limited, was fined for failing in his duties to take reasonable care for the health and safety of another person. The Court also fined C&V Loane Limited for failings in respect of its duty to Neil Graham as someone who was not directly employed by the company.

Breachers and fines for Gordon Brown were as follows:

Article 4 of the Health and Safety at Work (Northern Ireland) Order 1978: fine £20,000

Breaches and fines for Jamie Loane Limited are as follows:

Article 8 of the Health and Safety at Work (Northern Ireland) Order 1978: fine £10,000.

Breaches and fines for C & V Loane Limited are as follows:

Article 5 of the Health and Safety at Work (Northern Ireland) Order 1978: fine £20,000.

## **William Patton Agricultural Contractor Limited - 22 March 2023**

This prosecution follows the death of an employee in September 2021 who was operating a tractor and manure spreader on farmland at Islandmagee, County Antrim.

The company was fined for failing to ensure the safety of all employees by not maintaining the brakes of the manure spreader. There was no evidence to prove, however, that the maintenance defect was the cause of the accident.

The investigation by HSENI established that the tractor and manure spreader, owned by William Patton Agricultural Contractor Limited, was being operated by an employee on a steep grass field with the hydraulic brakes of the manure spreader not connected to the tractor. It was found that the brakes of the manure spreader had not been maintained in good working order, to the extent that even if they had been connected to the tractor, they would not have prevented the accident.

Breaches and fines were as follows:

Article 4(1) of the Health and Safety at Work (Northern Ireland) Order 1978: fine £1,000.