

# Newsletter July 2017



The Association has a web site: - [www.hgsafety.co.uk](http://www.hgsafety.co.uk)

HSE Web Link <http://www.hse.gov.uk/>

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## Topics

- **Accident Procedure**
- **Incident Investigation – Witness Statement Form**
- **Prosecution - Excavation collapse dangers ignored by director and digger operator**
- **Common Issues**
- **Picture Gallery – Good, Bad & Ugly**

This months newsletter comprises of what happens after an accident/dangerous occurrence has occurred, what documented evidence is required, to enable a report to be raised with supporting documentation that should give a true/clear reflection on what happened.

A prosecution and a reminder what can be expected when health and safety is ignored.

Common issues that were found over the previous months visits and picture gallery which I am sure sometimes helps and sometimes astonishes!

# Accident Procedure

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Some Member Companies have established procedures to be followed in the event of an accident. The procedure below is given as general guidance and outlines the steps that should be taken immediately after an accident:-

<b>1</b>	Attend to the injured person. Call for assistance and arrange for first aid, doctor, ambulance or hospital, as necessary
<b>2</b>	Isolate machine, tools, or equipment
<b>3</b>	<b>DO NOT</b> disturb, or move anything unless to release an injured person
<b>4</b>	Inform the manager, safety adviser, safety representative and other appropriate persons (such as HSE, fire officers, engineers or insurers)
<b>5</b>	Ensure any remaining hazard is guarded against
<b>6</b>	Take notice of anything significant and make general observations at the scene of the accident

## Recording evidence

Statements from witnesses should contain such details as their age and occupation. The time, date, and place of interview should be indicated at the end of the statement. Witnesses statements should always be written in their own words, even if these includes slang or expletives.

The completed statement should be read to the witness and ideally signed by them and by the persons who took the statement.

## Identifying the types of evidence

Evidence will usually include:-

- ✓ Statement of witnesses and others given orally, or in writing. 'Others' may include experts who, for example might have been called in to examine a machine or the state of a scaffold.
- ✓ Documentation of all kinds
- ✓ Material exhibits of all kinds

**Factual evidence** – comprises the facts related by persons directly involved, and by witnesses who are able to say what they felt, saw, heard, or give an expert opinion. This type of evidence is primary, direct and positive and should be written in simple language, keeping to the facts and avoiding inferences, opinions and beliefs. The facts should be recorded clearly, accurately and in sequence.

The best witnesses are those persons directly involved who are able to:-

- Listen carefully to the questions
- Answer directly, fairly, impartially, and truthfully
- State clearly when they do not know the answer
- Remain calm when they are being asked questions

**Material evidence** – including, for example, items of plant, equipment, machines, scaffolds, ladders or hand tools, where the use of, or that state or condition of, the item has a bearing on the accident.

**Corroborative evidence** – tends to support the truthfulness and accuracy of the evidence that has already been given. The confirming evidence may take the form of site records, plant or maintenance records, warning notices, written procedures or reports made by safety officers or safety representatives.

**Opinions** – are not generally acceptable as evidence in a court of law, but people in the vicinity of an accident should be asked to give an opinion. In this way a full picture can be built up of the circumstances of the accident.

Experts, or specialists, who are familiar with the type of accident, or technical and other factors surrounding the accident, may be called upon to express their expert opinions. When there is a lack of real or factual evidence, other forms of evidence (such as circumstantial and corroborative evidence) tend to become more valuable.

**Photographs** – taken immediately after an accident record the state of the scene and often highlight conditions that existed at the time. Machines, equipment, tools and obstructions, and factors such as floor conditions, place and dimensions, may show up very well on photographs.

Time, date and place or subject photographed should be written on the back of the pictures.

Too many photographs are far better than too few, and it is a good idea to make drawings of the area where the incident happened. Digital photography may not be accepted as primary evidence but may be suitable as supportive evidence.

Procedures should be in place to ensure that photographs have not been, or cannot be, computer-enhanced, as this would destroy their value as evidence.

## **Interviewing the injured person**

This depends on whether or not the police or HSE will be involved.

Interviewing the injured person should be an early priority. Even the briefest description of the accident should be suffice initially.

The physical and mental state of the injured person will need to be considered, and tact and patience will be required during the interview. The injured person should be fit to answer questions.

The injured person should be encouraged to talk about how the accident happened and it is important they have confidence and trust in the listener. It is important to stress that the purpose of the investigation is to find the cause so that preventive action can be taken. Blame should not be apportioned.

Questioning should not take the form of an interrogation. Someone well known to the injured person is probably the best person to do this. Safety officials are more likely to receive the co-operation of an injured person if they are to demonstrate a genuine interest in their welfare and recovery. This may involve visiting the injured person, with the doctor's approval, in hospital or at home.

Given the nature of the industry, often with multiple layers of sub-contracting, there may be a number of interested parties. Sharing statements is one way of reducing the stress on witnesses. However, regulators (such as the police and HSE) may be less forthcoming about such arrangements as they may see this as an employer trying to interfere in a criminal investigation.

## **Questioning the person in charge**

Establish from the injured person, manager, supervisor or the person in charge, what the normal job and tasks of the injured person were. Did they include the activity that led up the accident?

- ✓ What task or type of job was being formed?
- ✓ Was it planned or part of a planned activity?
- ✓ At what stage of the work did the accident occur?
- ✓ Was the person involved trained and authorised and if so when?
- ✓ Was the person authorised to be where the accident occurred?
- ✓ What instructions had been given?
- ✓ Were safe and correct procedures being observed?
- ✓ Did unsafe cause the accident? If so were they those of the injured person, workmates or others?
- ✓ Did any unsafe conditions contribute to the accident?
- ✓ What safety equipment or personal protection was available and in use?

# Incident Investigation – Witness Statement

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<b>Personal Details</b>			
<b>Name</b>		<b>Date of Birth</b>	
<b>Address</b>		<b>Post Code</b>	
<b>Job Role</b>			
<b>Incident Details</b>			
<b>Date of Incident</b>		<b>Time of Incident</b>	
<b>Injured Person Name</b>			
<b>Other People Present</b>			
<b>STATEMENT</b>			

[Large empty rectangular box for text entry]

Please continue on separate sheet if necessary

<b>I make the statement to the best of my knowledge and belief and understand that it may be used as evidence in a court of law</b>	
<b>Signed</b>	<b>Dated</b>

# Prosecution - Excavation collapse dangers ignored by director and digger operator

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The director of Conquest Homes, Andrew Winterton aged 52, has been convicted of [gross negligence manslaughter](#) following the death of a workman on a construction project in 2014.

The conviction follows a nine-week trial at Northampton Crown Court into the death of 33-year-old father-of-five Shane Wilkinson whilst he was employed as a groundworker at the Conquest Homes building site in Collyweston, Northants.

The court heard evidence of how Mr Wilkinson had been standing next to a deep trench that had been “incorrectly excavated” by excavator driver Mr Dean Wortley when a wall of the trench collapsed burying Mr Wilkinson beneath the collapsed material. Despite the efforts of fellow workers Mr Wilkinson was pronounced dead at the scene after his body was recovered.

Northamptonshire Police and HSE investigators found that the sides of the trench had not been properly or adequately secured and that Wortley and Winterton ignored basic safety measures. The Court convicted as follows:

- **Andrew Winterton** – of Colyweston and site manager and director of Conquest Homes, was found guilty of gross negligence manslaughter.
- **Dean Wortley** – of Market Deeping in Lincolnshire and who traded as Clearview Demolition, was found guilty of a failure as a self-employed person to discharge his duty to ensure the health and safety of persons not in his employment, contrary to section 33(1a) of the Health and Safety at Work Act 1974. He was also found guilty of failing to take all practicable steps to prevent danger, contrary to Regulation 31 of the Construction (Design and Management) Regulations 2007

**UPDATE:** Both defendants were sentenced on 30 June 2017.

**A Winterton – was sentenced to four years in jail. He will spend two in custody and two on licence. He was also ordered to pay costs of £90,500.**

**D Wortley – was given a 12 month sentence and will spend six months in custody and six months on licence. He was ordered to pay £20,000 towards costs**

## **Failed on most basic safety measures to prevent harm**

Speaking after the verdict Detective Superintendent Steve Woliter of Northamptonshire Police, said:

“This was a tragic loss of a young life that could so easily have been avoided. Winterton and Worley were both experienced in ground works and failed to show even the most basic safety measures to prevent harm to workers – such as Shane Wilkinson – on the Conquest Homes site.

Shane leaves behind five young children who are now being cared for by his parents. They were in court throughout the trial and have shown true dignity and strength despite listening to harrowing evidence.

This has been a very lengthy and complex investigation and I would like to thank the jurors for their dedication and attention to detail during this long trial.”

# Common issues identified on Sites

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## **Nick Jones Safety Advisor**

This month I have selected the most common questions asked to me by operatives regarding PPE and my advice

### **Q: Are safety helmets compulsory at all times?**

A: For the vast majority of cases yes - on almost all construction sites the risks of head injury are such that the law requires head protection to be worn. If there is no risk of injury to the head, then hard hats are not required by law. However, on almost all construction sites, even with controls being put in place, there will almost always be situations where a risk of head injury remains. Where there are such risks, for example, from falling objects or hitting the head against something, suitable head protection should be provided and worn (except for turban-wearing Sikhs). Turban wearing Sikhs are exempt from any legal requirement to wear a helmet but where they work in areas that a significant residual risk of head injury remains, managers should pay particular attention to the control measures that they have in place.

### **Q: Is it okay to wear shorts on a construction site?**

A: If your site has a policy on clothing that does not allow shorts then you are expected to follow this rule. Clothing needs to protect against hazards on site. The main reason for protecting the lower legs is to help guard against cuts, grazes and splinters etc in an environment where any skin damage can lead to infection. Some trades need to keep skin covered for other reasons - eg groundworkers can be exposed to concrete which can cause burns to the legs. During summer on very bright days it is important to protect against over exposure to sunlight which can cause skin cancer. Cases of malignant melanoma have increased dramatically in recent years. During cold weather it is important to keep warm, especially when, for example, working at height where the cold can distract and lead to loss of concentration.

### **Q: When must high-visibility clothing be worn?**

A: If a construction site has a high-visibility policy then you must follow it. Your employer will provide the equipment and you do not have to pay for it (so long as you look after it and make it last a reasonable time). High-visibility clothing should be worn in all construction locations where vehicles or plant are operating. This includes drivers when they leave their vehicle. For routine site use it is often sufficient for a tabard (sleeveless top) to be worn. Some construction operations - for example temporary traffic management workers need a higher standard of high-visibility. This is because public vehicles are moving nearby at higher speed than most construction plant, meaning that drivers need to see hazards from further away to give them time to react. Because of this the requirement includes high-visibility long sleeved jacket and high-visibility trousers.

### **Q: Is it okay to wear rigger boots on a construction site?**

A: Over recent years rigger boots have become popular because they are easy to put on and are a cross between lace up boots and wellingtons. However some companies have found that wearers of rigger boots are much more likely to suffer twisted or sprained ankle injuries. They think this is because rigger boots are a looser fit and the wearer is less able to prevent the foot from twisting to the side on uneven ground. As a consequence following serious injury rigger boots make it much more difficult for the treatment of first aid should the boot need to be removed as rigger boots are tough and cannot be easily cut. This is the reason that some contractors will not allow them on site. This is an acceptable argument and you need to understand and comply with this rule. Lace up boots are not normally suitable for licensed asbestos work within an enclosure. There is a history of cement burns where cement has gone into the safety shoe or boots and wellington boots may provide more protection for groundwork using cement.

## **Adrian Hatton Safety Advisor**

I am noticing during my visits to sites that some Contractors are unaware of their duties regarding lifting, particularly those tasks where lifting loads using a telehandler is involved. The following information and guidance will help to assist when planning all lifting operations.

All lifting operations should be planned by a competent person (often referred to as the appointed person) who must ensure that the planning for each task includes the following:-

- Identifying the task to be undertaken;
- Selection of appropriate lifting equipment and lifting accessories;
- Identifying the hazards associated with the task;
- Carrying out a risk assessment;
- Identifying control measures;
- Developing the method to be used;
- Recording the planning in a method statement (Lifting Plan);
- Communicating the plan to all person involved;
- Reviewing the plan before the tasks starts and incorporating any changing circumstances.

# Picture Gallery



Louise with the WWT Team



WWT – Demonstration of a rescue with the assistance of a few H & G Members – Thank you 😊



The Good! 😊



The Bad!! 😞



The Ugly!!! 😞😞