Health & Safety Update | April 2020

Welcome to Strutt & Parker's Farm Research Group Health & Safety Update. The quarterly Health & Safety Update is designed to assist you in ensuring that you are thinking about topical health and safety matters on your farm or estate. Health and safety is a vital part of any business operation.

The harm caused to employees and the financial cost to employers due to accidents and incidents in the workplace is immense. This update examines the importance of incident investigation for preventing recurrence and looks at the drivers for and characteristics of a good investigation to inform long-term health and safety improvements.

As we are now in the Cross Compliance period for slurry spreading, we consider the suitable and sufficient fencing of slurry stores. We identify the dangerous gases produced by slurry, together with their patterns of release, as well as precautions for managing and entering below ground stores. We explain Safe Systems of Work as the next step after risk assessment, and their role in setting out how tasks should be safely and consistently completed. We provide an update on Coronavirus (COVID-19) before explaining the revisions to Workplace Exposure Limits published by the Health & Safety Executive in January 2020.

This update includes a case study of a recent prosecution after a Fedex employee was seriously injured when he was hit by a forklift truck. This serves as a reminder to the agricultural sector of the need to segregate vehicle and pedestrian traffic, particularly given the high number of fatalities last year as a result of being struck by a moving vehicle. Finally, we recap the requirements of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and the need to have at least one smoke alarm on every storey of let properties and a carbon monoxide alarm in any room containing a solid fuel burning appliance.

For further information, please contact Robert Gazely on **07771 395523** or **robert.gazely@struttandparker.com**

INCIDENT INVESTIGATION

The International Labour Organisation (ILO) estimates that each year, there are more than 2.78 million deaths worldwide as a result of workplace incidents or work-related diseases. In addition to this, it estimates that there are 374 million non-fatal work-related injuries and illnesses per year. The harm caused to employees and the financial cost to employers due to injury and ill health is immense. It is therefore, extremely important that you learn lessons from workplace incidents on your farms and estates. The ultimate aim of an incident investigation is to prevent recurrence of the same or indeed, a more serious incident happening in the future.

Although incident investigation is not explicit in legislation, the Management of Health & Safety at Work Regulations 1999 does contain the legal obligation to carry out suitable and sufficient risk assessments. An incident that passes without investigation would potentially show that the risk assessment for that work activity was not suitable and sufficient. Furthermore, investigating effectively can demonstrate to injured parties, other employees, enforcement agencies and the courts, that you are taking steps to ensure that a similar event cannot happen again.

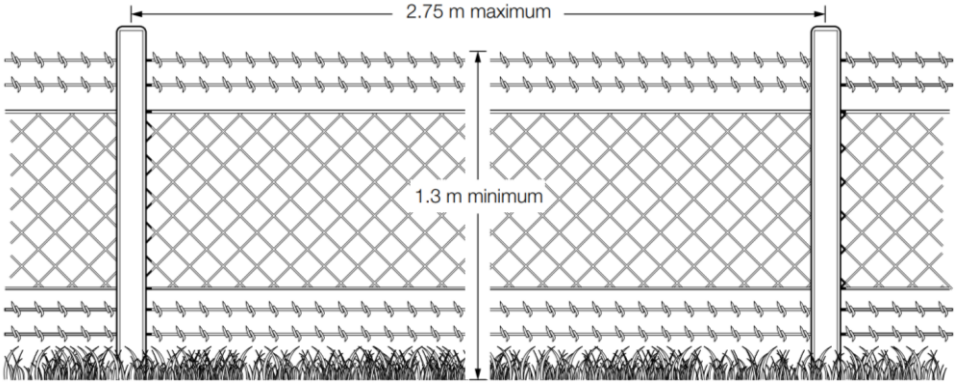
The primary reason for investigating accidents and incidents is to identify the contributory causes to prevent recurrence. This will have the benefits of preventing further disruption and down time, as well as insurance, legal and prosecution costs. There are other drivers for incident investigation, including:

- Understanding the human and organisational factors that contributed to the incident.
- Gaining a true picture of what really happens and how work tasks are really carried out.
- Determining reportability under the Reporting of Injuries, Diseases & Dangerous Occurrences Regulations 2013.
- Recording information to pass on to the insurance company and/or enforcing authority.
- Demonstrating a positive health and safety culture and commitment to the injured party and other employees.
- Identifying deficiencies in the existing health and safety management system and improvements for the future.

A good investigation should identify the immediate, underlying and root causes of the incident. It should consider the worst possible outcome of the incident, the likelihood of recurrence, lessons that can be learned and applied across the farm or estate, whether there has been a breach of legislation, where there are any civil liability implications, if there are any uninsured risks, and whether the incident could impact on wider groups such as members of the general public. The depth of investigation must be linked to the likelihood and potential worst consequence of the incident and should be conducted by a person or team of people with the appropriate level of knowledge and expertise. It is important to identify that the investigation is adopting a no blame culture but is instead focused on long-term health and safety improvements.

SLURRY STORAGE

Incidents involving slurry have previously caused fatalities on farms in the UK: in 2015, two workers, one aged 32 and other aged 36, were both found dead in an underground slurry pit whilst attempting to clear a blocked pipe. Incidents include people, not just farmers, being overcome by toxic gases, drowning as a result of falls into slurry or liquid stores, or being injured from the collapse of structures containing slurry. The HSE's guidance on managing slurry on farms was revised in 2015 and combines advice about slurry gases, fencing slurry lagoons, maintenance of slurry storage facilities, and preventing child access: http://www.hse.gov.uk/pubns/ais9.pdf.



Perimeter fencing must be designed to deter access and be properly erected and maintained. Fencing should be constructed of suitable material such as small-mesh wire fencing or sheet material which do not offer hand or footholds, particularly for children. The fence must have an overall minimum height of 1.3 metres including at least two strands of barbed wire spaced 100 to 150 millimetres apart at the top. Fencing must be designed so it cannot be pushed up from the bottom by stock.

Access points such as gates and scraping platforms should be locked when not in use. They should also offer an equal standard of deterrence to the fence described above, this can be achieved by fitting metal sheeting or cladding to gates so it is virtually impossible for children to climb over them.

Below ground stores must have a suitable cover over them for the type of traffic that they are likely to experience. There should be no gaps greater than 75mm between slats or mesh or alongside pumps. Extraction pipes or hoses should be secured to prevent them from falling in and appropriate signage must be in place. Covers should be heavy enough to prevent children from lifting them and kept locked when not in use. However, they should also be large enough to allow access for rescue purposes, with consideration given for a potential rescuer wearing breathing apparatus.

All fences, covers, locks and signage should be maintained on a regular basis to ensure they are in a good serviceable condition. Storage of materials against or beside fences should be prohibited as this can provide an access route to get over the fence. Any ladders used to access stores must be removed when not in use and access hatches closed.

Dangerous gases are produced by bacteria during the decomposition of slurry; these gases include methane, carbon dioxide, ammonia and hydrogen sulphide. The most dangerous is hydrogen sulphide, it is extremely poisonous to people and animals. Hydrogen sulphide is formed within the slurry in the tank, some may bubble to the surface but most remains dissolved in the slurry. When slurry is mixed, the gases are released immediately. The rate of release is variable and difficult to predict which makes it all the more dangerous, the first 30 minutes being the most dangerous, with the quantity of slurry gas released decreasing as mixing continues. Each time pumps are repositioned to mix another part of the tank, the gas concentration normally rises and you should stay out of the building for at least 30 minutes or longer, depending on the size of the tank.

Hand held monitors are readily available and can, if properly maintained and calibrated, provide an additional safety precaution for farmers working with slurry but can only ever be a back-up to a safe system of work, not a substitute. Any person who enters a slurry tank must wear full breathing apparatus with its own air supply, a facemask is not suitable. Below ground stores are confined spaces and should only be entered by authorised, fully trained and competent personnel and have the necessary equipment to enter such areas safely.

SAFE SYSTEMS OF WORK

Risk assessments are designed to ensure that all risks are considered for the completion of a given task. Looking beyond this, Safe Systems of Work (SSoW) should set out *how* a task is to be completed to ensure safety of personnel, machinery and the environment. SSoWs should therefore consider the risks, control measures, equipment, environment, emergencies and the competence and skills of those involved.

SSoW should be planned in advance of work being carried out and are required for routine as well as non-routine and isolated tasks. They should take into account the experience of those performing the task and any special requirements they may have. There are specific rules for young people which are complex but particularly relevant to farming businesses.

SSoW provide a consistent approach to each task with safeguards that may well be similar for various different risks. Moreover, SSoW will not only help to prevent accidents occurring in the first place, but can be used to defend prosecutions by providing evidence of the steps taken to ensure safe and consistent practices.

CORONAVIRUS (COVID-19)

COVID-19 is a respiratory illness caused by a novel coronavirus that can affect the lungs and airways. Coronaviruses are in fact, a family of viruses that are common across the world in both animals and humans and cause a wide array of ailments from the common cold to Severe Acute Respiratory Syndrome (SARS). COVID-19 specifically, is the illness seen in people infected with a new strain of coronavirus not previously seen in humans. Symptoms include a fever, shortness of breath, breathing difficulties, muscle pain, tiredness, dry cough, dyspnoea (laboured breathing), sore throat, diarrhoea, anosmia (loss of smell), dysgeusia (loss of taste), conjunctival hyperaemia (sore/bloodshot/dry eyes). As of 11th March 2020, the World Heath Organisation (WHO) declared coronavirus a pandemic. At the time of writing in early April, there were 47,806 confirmed positive cases and 4,934 deaths in the UK. The Government has published its coronavirus action plan acknowledging that due to technological and connectivity advances, illnesses travel much more quickly now than even ten years ago.

As a result of the outbreak, the Health & Safety Executive (HSE) has suspended routine inspections. It will continue to respond to serious issues but limiting contact between individuals to ensure it is following Government advice.

At the time of writing, advice and guidelines for yourselves, colleagues, employees and your families includes:

- Wash your hands frequently with alcohol-based hand wash or wash with soap and water for at least 20 seconds.
- Maintain social distancing of at least 2 metres between yourself and others.
- Avoid touching your eyes, mouth and nose.
- Cover your mouth and nose with a tissue or your sleeve (not your hands) when you cough or sneeze.
- Put used tissues in the bin straight away and wash your hands afterwards.
- Stay at home for 7 days if you have either a high temperature or new and continuous cough.
- Do **not** go to a GP surgery, pharmacy or hospital.
- Develop a response plan for if someone in the workplace becomes ill with suspected COVID-19.
- Plan to identify those who may be at high risk without stigma or discrimination.
- Explore ways of remote working that will allow employees to continue their work from home.
- Consider the mental health and social consequences of COVID-19 for your employees.

WORKPLACE EXPOSURE LIMITS

On 17th January 2020, the Health & Safety Executive (HSE) published a revised version of EH40/2005 Workplace Exposure Limits (WELs), introducing or revising 13 binding WELs for a number of carcinogenic substances.

WELs are implemented in the United Kingdom (UK) by the Control of Substances Hazardous to Health (COSHH) Regulations 2005, which requires exposure to carcinogenic substances to be reduced to a level that is as low as is reasonably practicable.

A number of revisions made by HSE will affect rural and agricultural businesses. These include:

- Hardwood dusts, down from 5mg/m3 to 3mg/m3. These can cause asthma and cancer, particularly of the nose. Hardwoods are timbers from deciduous trees such as ash, beech and oak. Tree surgeons, carpenters and those using timber in construction are therefore particularly at risk. At 3mg/m3 per 8 hour time-weighted average, the WEL for hardwood dust is lower than that for softwood dust.

- Ethylene oxide, down from 9.2mg/m3 to 1.8mg/m3. Ethylene oxide has a number of natural sources in the rural environment including waterlogged soils, manure and sewage, and has also been used in the past as an insecticide. It can cause irritation of the eyes and nose, coughing, a burning sensation in the mouth, breathlessness and, in severe cases, lung damage.

- Respirable crystalline silica (RCS), which can cause silicosis, chronic obstructive pulmonary disease (COPD) and lung cancer. Silica is a natural substance found in most rocks, sand and clay and in products such as bricks and concrete. In the workplace, these materials create dust when they are cut or sanded down or during construction or demolition activities involving concrete, stone, brick or mortar.

COSHH requires the employer to prevent or control exposure to hazardous substances. This involves undertaking a suitable and sufficient assessment of the risks to employees' health and safety including consideration of the work activity, hazard, people exposed, type and extent of exposure, and control measures. It should also consider health surveillance or exposure monitoring where required, and the provision of information, instructing and training.

CASE STUDY

Parcel giant Fedex UK has incurred a £533,000 fine after an employee was seriously injured when he was hit by a forklift truck.

On 2nd November 2017, the employee was walking across the depot in Staffordshire when he was struck by the reversing vehicle. He was pinned to the ground and his colleagues had to use a pallet truck to free him. He suffered serious fractures to his arm and soft tissue injuries to his legs and was unable to work for several months.

HSE investigators concluded that there was inadequate segregation between vehicle and pedestrian traffic. A workplace risk assessment had been carried out, however it had not identified the importance of achieving robust segregation in an area where forklift trucks were in frequent use. Fedex UK pleaded guilty to contravening Section 2(1) of the Health & Safety at Work etc. Act 1974 and was additionally ordered to pay costs of £10,033.

An HSE representative commented that, "those in control of work have a responsibility to provide safe methods of working and a safe working environment. Collisions between vehicles and pedestrians can be avoided if the workplace layout is properly planned, effectively segregated and suitable systems of work are introduced. If physical barriers and a suitable system of work had been in place, the injuries sustained by this employee could have been prevented."

This case serves as a timely reminder to all involved in agriculture to consider the segregation of vehicle and pedestrian traffic in farmyards and buildings, particularly those such as potato pack houses and fresh produce facilities where forklift truck movements occur on a daily basis.

In 2018-19, 14 people were killed when struck by moving vehicles in agriculture, accounting for 36% of fatalities in the sector. This included a 53 year old farm worker in Yorkshire who was run over by a telehandler being reversed inside a goat milking shed; and a 71 year old member of the public who was run over by a reversing telehandler, being driven by a farm worker. The member of the public was walking with a friend along a bridleway through the farm yard and was struck as they stopped to ask the farm manager for directions.

SMOKE & CARBON MONOXIDE ALARMS

Following the introduction of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015, private sector landlords are required to have at least one smoke alarm installed on every storey of their rental properties which are used as living accommodation, and a carbon monoxide alarm in any room containing a solid fuel burning appliance (e.g. a coal fire or wood burning stove).

It should be noted that heat detectors are not a replacement for smoke alarms and that, as gas appliances can emit carbon monoxide, landlords are encouraged to ensure that carbon monoxide alarms are present in every room containing such appliances.

The landlord must subsequently ensure the alarms are in working order at the start of each tenancy. After the landlord's test on the first day of the tenancy, tenants should take responsibility for their own safety and test all alarms regularly to make sure they are in working order. Testing monthly is generally considered to be an appropriate frequency for smoke alarms. Requirements of the legislation can be enforced by local authorities who can impose fines of up to £5,000 where a landlord fails to comply with a remedial notice.

Neither smoke nor carbon monoxide alarms last forever. You should check the manufacturer's quoted lifetime and replace the alarm no later than recommended to ensure you continue to have adequate protection. Correct positioning and installation is also important for the proper functioning of the device.

Before purchasing a carbon monoxide alarm, always ensure it complies with British Standard EN50291 and carries a British or European approval mark, such as a Kitemark. Similarly, smoke alarms should conform to British Standard EN14604.

CONTACT US

OFFICES

London Head Office	020 7629 7282
Ascot	01344 876 363
Banbury	01295 273 592
Banchory	01330 824 888
Cambridge	01223 459 500
Canterbury	01227 451 123
Chelmsford	01245 258 201
Chester	01244 354 888
Chichester	01273 832 602
Cirencester	01285 659 661
Edinburgh	0131 226 2500
Exeter	01392 215 631
Farnham	01252 821 102
Gerrards Cross	01753 891 188
Guildford	01483 306 565
Harpenden	01582 764 343
Harrogate	01423 561 274
Haslemere	01428 661 077
Horsham	01403 246 790
Inverness	01463 719 171
Ipswich	01473 214 841
Lewes	01273 475 411
Ludlow	01584 873 711
Market Harborough	01858 433 123
Moreton-in-Marsh	01608 650 502
Morpeth	01670 516 123
Newbury	01635 521 707
Northallerton	01609 780 306
Norwich	01603 617 431
Odiham	01256 702 892
Oxford	01865 366 700
Pangbourne	0118 984 575
Perth	01738 567 892
Salisbury	01722 328 741
Sevenoaks	01732 459 900
Shrewsbury	01743 284 204
St Albans	01727 738 280
Stamford	01780 484 040
Sunningdale	01344 623 411
Winchester	01962 869 999

CONTACTS

Land Management
James Farrell BSc(Hons) MRICS FAAV
01423 706770
james.farrell@struttandparker.com

Farming
Will Gemmill BSc FAAV MBPR (Agric)
01223 459471
will.gemmill@struttandparker.com

Development & Planning
John McLarty
01245 254603
John.Mclarty@StruttAndParker.com

Accounting & Taxation Services
Alex Heffer, BA(Hons) ACCA
01245 254656
alex.heffer@struttandparker.com

Building Surveying
Alex Naraian
01483 303098
alex.naraian@privatepropertyprojects.co.uk

National Estate Agency
Guy Robinson
020 7318 5175
guy.robinson@struttandparker.com

Estate & Farm Agency
Matthew Sudlow
01865 366640
matthew.sudlow@struttandparker.com

Health & Safety
Robert Gazely BA(Hons) MSc MBPR PAgric AIOSH
01245 254611
robert.gazely@struttandparker.com

Energy
Alexander Creed BSc(Hons) MRICS FAAV
020 7318 5022
alexander.creed@struttandparker.com

Research
Jason Beedell MRICS PhD BSc(Hons)
020 7318 4757
jason.beedell@struttandparker.com