

TECHNICAL NEWSLETTER – 18 october 2013

Hospital trust sentenced over fatal Legionnaires' disease and patient window fall

Basildon and Thurrock University Hospitals NHS Foundation Trust has been ordered to pay a total of £350,000 in fines and costs for serious safety failings relating to two separate matters.

The first concerns at least seven patients being infected with legionella, the bacteria that causes Legionnaires' Disease, from the hospital's water system. Fifty-four year-old Raymond Cackett died in March 2010 as a direct result of developing Legionnaires' Disease. It also contributed to the death of 74-year-old patient James Compton in June 2007. A further five patients were infected at the hospital between 2006 and 2010, as was a hospital visitor.

The second incident involved a vulnerable 80 year-old patient falling almost five metres from an inadequately restricted window in June 2012. She suffered a broken back and ankle. Chelmsford Crown Court heard how an investigation by the Health and Safety Executive (HSE) identified a catalogue of failures relating to both matters. In particular, the Trust failed to monitor the hot and cold water systems adequately or ensure that key parts of the system, such as the shower heads and hoses, were kept clean.

Basildon and Thurrock University Hospitals NHS Foundation Trust was fined £100,000 with costs of £162,000 after admitting breaching Section 3(1) of the Health and Safety at Work etc Act 1974 for the period between 28 February 2004 and 31 December 2010 in relation to the legionella cases.

Basildon and Thurrock University Hospitals NHS Foundation Trust also pleaded guilty to breaching Regulation 3(1) of the Health and Safety at Work etc Act 1974 for the fall incident. It was fined a further £75,000 with additional costs of £13,000.

Contractors are worried that HSE inspectors are concentrating more on charging for spotting safety breaches than issuing advice. Clients should worry too.

The innovative Fees for Intervention (FFI) scheme came into force last year on the 1st October.

Fee for Intervention (FFI) is HSE's cost recovery regime implemented from 1 October 2012, under regulations 23 to 25 of The Health and Safety (Fees) Regulations 2012.

These Regulations put a duty on HSE to recover its costs (at a rate of £124 per hour) for carrying out its regulatory functions from those found to be in material breach of health and safety law.

A material breach is when, in the opinion of the HSE inspector, there is or has been a contravention of health and safety law that requires them to issue notice in writing of that opinion to the duty holder.

The scheme means that those in breach have to pay charges of £124 an hour if they are notified in writing by the HSE that it has found a 'material breach' on one of their sites. It is reported that an international law firm has carried out a survey into how life for its clients has changed since the scheme was introduced. They are reported as saying:

“The overwhelming feeling from a national client survey is that the dynamic around HSE visits has changed dramatically, with organisations complaining of a 'double whammy' in that HSE inspectors are quick to identify a material breach, yet the advice they have provided to organisations in the past is frequently less available. The survey also showed that fewer than 50 per cent of those who oversaw the HSE visit in the workplace had heard of FFI prior to the inspector turning up on site.”

Organisations must ensure that those in key positions on their sites, not just in the board room, understand the implications of FFI, are given the resources to ensure compliance and know how to keep costs to a minimum in the event of a material breach being found.

<http://www.kok-surveyors.co.uk/CDMCoordinators.aspx>

For other CDM/ Health and safety comment go to our Blog: <http://www.kok-surveyors.co.uk/Blog.aspx>

KEELAGHER OKEY KLEIN – CHARTERED QUANTITY SURVEYORS

ADDRESS:

26 Museum Street, Warrington, Cheshire, WA1 1HU

CONTACT DETAILS:

John Okey or Tim Keelagher
Tel: 01925 654158, Fax: 01925 445459
email: enquiries@kok-surveyors.com
website: www.kok-surveyors.com

ESTABLISHED:

In Warrington in April 1980 as
Pheasant Keelagher Partnership

QUALITY ASSURANCE:

BS EN ISO 9001: 2008

CORE SERVICES:

Quantity Surveying
Building Surveying
CDM Coordinator
Project Management
Site Waste Management Planning
Measured Term Contract Administration
Training
Fire Risk Surveys
Bills of Quantities
Quality and Safety Auditing and Training
Quality Assurance Consultancy
Design Services
Procure 21 and PFI
Builders Quantities

SAFETY SERVICES/TRAINING:

CDM Awareness
Risk Assessment
Confined Spaces
NEBOSH Construction Certificate
IOSH Managing Safely (Adapted for construction)
Conflict Management
Manual Handling (CIEH Validated)
Controlling Hazardous substances (CIEH Validated)
Patient Manual Handling
Bespoke and in-house courses
See our website

ACCREDITATION INCLUDES:

Royal Institution of Chartered Surveyors
Association of Project Safety
Association of Building Engineers
Institution of Safety and Health
Constructionline - Registration Number 17436
North West Consortium for NHS Trusts
Link-Up, The Rail Industry Supplier Qualification and Registration
Daresbury Laboratory
The University of Manchester
The University of Salford
Alder Hey Children's Hospital
Golden Gates Housing Trust

SYSTEMS:

Implementation of Health and Safety Management
Implementation of Quality Management Systems

AUDIT/RISK ASSESSMENT:

Provision of CDM compliance audits and action plans
Site Safety Audits and Inspections
Quality Management audits
Fire Risk Surveys

CLIENT QUOTES:

".. how much I have appreciated working with you during the last sixteen years. It is with your help and co-operation that Matalan has achieved the targets and tight schedules which at times have seemed almost impossible".

".. Keelagher's commitment to our project has been considerable and their professional conduct exemplary".

"We would like to take this opportunity of thanking you for your professional services over the past years".

"This talk was the best of any sort we have attended"

"We have always had a relationship based upon mutual trust and professional appreciation".

".. like to thank you for your sustained efforts on our behalf".

TYPICAL COMMISSIONS:

CLIENT: Alder Hey Children's Hospital
COMMISSION:

Construction Partnering Contract:
Quantity Surveying/CDM Coordination
VALUE: Various orders totalling over £22M

CLIENT: Golden Gates Housing Ltd.

COMMISSIONS:

CDM Coordinator on all repair, alterations, extensions,
maintenance
VALUE: 13M

CLIENT: Network Rail

COMMISSIONS:

An urgent survey of 464 Vehicle Incursion risk sites
Training in CDM Regulations

CLIENT: Matalan plc

COMMISSIONS:

73 Stores throughout the UK
Project Management/Quantity Surveying
CDMC/Design

CLIENT: University of Manchester

COMMISSION:

Framework agreement for CDM Coordinator
VALUE: Over £160 million

CLIENT: Taylor Woodrow Construction Ltd.

COMMISSION:

Preparation of Quantities for Tesco Stores
and Health Centre

CLIENT: Halliwell Jones Ltd.

COMMISSION:

Alterations to BMW and Mini Dealerships
Quantity Surveying/CDMC
VALUES: up to £4,500,000

CLIENT: Bolton NHS Foundation Trust

Confined Spaces Risk Assessment Survey
Building Surveying/Training
Whole of Ducts

CLIENT: 5 Boroughs Partnership NHS Foundation Trust

COMMISSION:

33 urgent projects total value £650,000.00
Building Surveying/Project Management/Quantity Surveying/
Design completed within 8 months of commission