

Environmental and Waste Management Group

October 2018 Newsletter



LEGISLATION

Environmental Law News Update

In its latest Environmental Law News Update Six Pump Court's Charles Morgan, Gordon Wignall, William Upton and Nicholas Ostrowski consider a landmark case on litigation privilege, the opening up of the EU Commission's pre-legislative file, a set of principles for future collaboration between stakeholders within the water industry, and the revised NPPF. (Read more: 6pumpcourt.co.uk)

Agriculture Bill

Brexit requires the UK to have a new agriculture policy. The Agriculture Bill 2017-19 (HC Bill 266) was published on 12 September 2018. The government considers the bill will ensure "stability" for farmers as the UK exits from the EU's Common Agricultural Policy and provide compliance with the World Trade Organisation Agreement on Agriculture. It also introduces new measures to change the way in which farmers and land managers are supported in the longer term, the bill offering a legal framework for 'delinking' financial support from occupation of agricultural land. (Read more: gov.uk)

Defra's readiness for Brexit

The national Audit office has reported that Defra will not be ready for a no-deal Brexit and does not yet understand the scale of work it must complete. Defra is responsible for 55 of the 319 EU-related workstreams across government, covering chemical and agrifood industries, agriculture, fisheries and the environment. The report concludes: "For some workstreams, Defra has passed the point where it will be able to deliver what it had initially planned for a 'no-deal' exit in March 2019." (Read more: theguardian.com)

UK chemical regulation under a "no-deal" Brexit

The UK government published the technical notice "Regulating chemicals (REACH) if there's no Brexit deal" on 24 September 2018. The technical notice only details the government's plans for a "no-deal" scenario Brexit and does not cover what may happen in the event of a "deal" scenario. An analysis of the technical notice and what this means in practical terms for the chemicals industry may be found [here](#).

REGULATORS, GUIDANCE & CONSULTATIONS

HSE Waste & Recycling Inspection campaign

HSE launched its inspection campaign on 1st October targeting the waste and recycling industry. The three month long series of unannounced inspections will assess all aspects of site management and the control of risk, but particular focus will be placed on the management of workplace transport and machinery safety.

HSE's free guidance on health and safety in the waste and recycling industry can be found [here](#).

Construction Health Inspection Initiative

Health and Safety Executive (HSE) will also be carrying out its latest construction inspection initiative throughout October 2018. This initiative focusses on [health](#), in particular the measures in place to protect workers from occupational lung disease caused by [asbestos, silica, wood and other dusts](#) when carrying out common construction tasks.

Why? Priority is often given to safety but thousands more workers suffer ill-health at work than are harmed by at-work accidents. Asbestos and dust are slow killers. HSE estimates that annually there are around 8,000 work-related cancer deaths a year. The construction industry accounts for around 3,500 of these with asbestos and silica the major causes. Construction businesses and workers need to be aware of how dangerous and hazardous to someone's health such substances can be.

How? HSE inspectors will be looking to ensure those involved with construction projects [know the risks](#), properly [plan the work](#) and [use the right controls](#). Where poor standards are found enforcement action will be taken.

INCIDENTS AND PROSECUTIONS

CP Environmental Ltd fined £34,000 after employee's waste shredder accident

Waste management and recycling company CP Environmental Limited has been sentenced after an employee sustained serious injuries to his foot while adjusting a waste shredding machine. HSE's investigation found a number of failings including lack of training, monitoring and supervision.

HSE's Inspector, David Keane, said: "This incident could have easily been avoided and it was fortunate that the injuries suffered weren't more serious. Those in control of work have a responsibility to devise safe methods of working and to provide the necessary information, instruction and training to their workers in the safe system of working, and to properly monitor and supervise those systems." (Read more: shponline.co.uk)

Waste transfer company fined £70,000 for dust pollution

A Nottingham waste transfer firm, Colson Transport, and its director have been ordered to pay more than £70,000 for permit violations resulting in dust pollution and odour issues over a 19 month period causing significant impact on the local community. The judge said the company had acted

recklessly and found the length of time the company was in breach of its permit, coupled to a history of non-compliance, “an aggravating feature” of the sentence.

Commenting after the hearing, Environment Officer Everal Burrell said: “The Environment Agency works hard to protect people and the environment while supporting the vast majority of businesses that operate responsibly. This case demonstrates that we will take action against those who do not operate their business within the confines of relevant regulations... We hope this case will serve as an example and a warning for other operators to take their responsibilities seriously. We are determined to take actions against those who don’t.” (Read more: gov.uk)

Costain and Galliford fined £2.8m over amputation

The two major construction firms have been fined £1.4m apiece after an agency worker, who had previously expressed concern about low staff levels, was injured when his foot was drawn into a rotating screw conveyor at United Utilities’ sewage plant in Cheshire.

HSE investigating inspector David Argument explained the failings included not having the right risk assessments, or a safe system of work: “They were trying to put the machine into service before it was handed over to the client; commissioning [new equipment] is often a risky part of the process... The injured person didn't have full documentation in relation to what needed to be done to commission the machine, and he wasn't a commissioning engineer: he was the MEICA (mechanical, electrical, instrumentation control and automation) site manager who wouldn't normally do the commissioning, but ended up doing it nonetheless... He had previously raised concerns with Costain and Galliford Try about staffing levels on the site. But he did what he thought needed to be done, and was able to get into proximity with it using a ladder.” (Read more: cedrec.com)

OTHER TOPICS OF INTEREST

Chartered Institution of Wastes Management (CIWM) launches a year-long campaign to improve the waste and recycling sector’s poor safety record

Headed by the CIWM’s health, safety and wellbeing special interest group (SIG), the “This time it’s personal” campaign aims to help members of the waste sector’s professional body improve workplace standards by challenging colleagues’ behaviour and recognising common human factors. The campaign, launched on 12 September, will feature a topic a month and will also seek to highlight good practice methods.

Earlier this year, the UK’s Health and Safety Executive (HSE) published [Common Human Factors Underlying Worker Fatalities in the Waste and Recycling Industry](#), which found that knowledge-based errors appeared to be the most significant human factor underlying fatal incidents. HSE statistics show that the fatal injury rate for waste and recycling workers is 15 times greater than the average rate across all industries over the five-year period 2012/13-2016/17, even though the sector accounts for about 0.4% of employees in Great Britain. (Read more: ioshmagazine.com)

Regulating new nuclear power stations

The Office for Nuclear Regulation has produced a new e-bulletin about its regulation of new nuclear power stations. The new e-bulletin will be issued on a regular basis and provide information about the way it regulates the nuclear industry in the UK and news on its current activity. (Read more: [news.onr.org.uk](https://www.onr.org.uk/news))

Building on Brownfield – towards more effective regulation of brownfield development

An Environmental Industries Commission report on the regulation of brownfield development found increasing workloads, cuts in resourcing, lack of specialist officers and a drift towards self-certification which puts communities potentially at risk. (Read more: [eic-uk.co.uk](https://www.eic-uk.co.uk))

Climate change comment in annual company reporting

A 'green' not-for-profit legal practice, Client Earth, has reported Balfour Beatty has been reported to the Financial Reporting Council by for not mentioning climate change enough in its latest annual report. (Read more: [clientearth.org](https://www.clientearth.org))

World 'nowhere near on track' to avoid warming beyond 1.5C target

The world's governments are "nowhere near on track" to meet their commitment to avoid global warming of more than 1.5C above the pre-industrial period, according to an author of a key UN report that will outline the dangers of breaching this limit.

A massive, immediate transformation in the way the world's population generates energy, uses transportation and grows food will be required to limit the global temperature rise to 1.5C and the forthcoming analysis is set to lay bare how remote this possibility is. (read more: [theguardian.com](https://www.theguardian.com))

Energy-from-waste plant refused against officer advice

Plans have been refused for an energy-from-waste plant at Waterbeach in Cambridgeshire due to concerns over its landscape and heritage impacts, against a recommendation from planners. (Read more: [elystandard.co.uk](https://www.elystandard.co.uk))

ROSPA Health & Safety Awards

Countdown for the 2019 awards... (Read more: [rospa.com](https://www.rospa.com))