
Simulation for 200 Gray's Inn Road, London

Incident Simulation

Review and Findings

Scenario

- At 15:00hrs on the 5th September Mr Alex Varga (an employee of The strip out company) received a fatal electric shock in a plant room on the 1st floor.
- The damaged cable had been over sprayed with green paint incorrectly indicating that the cable had been isolated
- The Plant room in question was under the control of the electrical contractor who are employed by the main contractor. The electrical contractor issues Permits to Work for the area as the responsible electrical duty holder
- The electrical contractor had issued keys to the plant room to Mr Varga on the day of the incident

Findings from the investigation



- Cable over sprayed with green paint possibly incorrectly indicating that the cable had been isolated
- Mr Varga was a Romanian national and English not his first language
- Strip out contractor RAMs incorrectly given A status on document control system by main contractor instead of C status as directed by the comments on the documents
- The RAMs had no physical signature and A status incorrectly generated by document control system.
- When issuing Permits the electrical contractor did not check the RAMs for signatures they just relied on the system showing A status

Case for the Prosecution



CPS

- The main contractor failed to ensure the suitability of the strip out contractors and electrical contractors Risk Assessments and are therefore in breach of their duty as the Principal Contractor to plan, manage and monitor the construction phase under Regulations 13(1) of the Construction (Design and Management) Regulations 2015
- The main contractor also failed to protect persons other than their employees so in breach of Section 3(1) of the Health & Safety at Work etc. Act 1974
- The electrical contractor failed to carry out a suitable and sufficient risk assessment so breached Regulations 3(1) of the Management of Health and Safety at Work Regulations 1999
- The electrical contractor failure to conduct a suitable and sufficient risk assessment put their employees and persons other than their employees at risk and therefore breached Section 2(1) and Section 3(1) of the Health and Safety at Work etc. Act 1974
- The strip out contractor failed to conduct a suitable and sufficient risk assessment in breach of Regulation 3(1) of the Management of Health & Safety at Work Regulations 1999 and failed to ensure far as is reasonably practicable the health, and welfare of their employees so are in breach of Section 2(1) of the Health and Safety at Work etc. Act 1974.

Sentencing Guideline for H&S Offences

Culpability

Where there are factors present in the case that fall in different categories of culpability, the court should balance these factors to reach a fair assessment of the offender's culpability.

Very high

Deliberate breach of or flagrant disregard for the law

High

Offender fell far short of the appropriate standard; for example, by:

- failing to put in place measures that are recognised standards in the industry
- ignoring concerns raised by employees or others
- failing to make appropriate changes following prior incident(s) exposing risks to health and safety
- allowing breaches to subsist over a long period of time

Serious and/or systemic failure within the organisation to address risks to health and safety

Medium

Offender fell short of the appropriate standard in a manner that falls between descriptions in 'high' and 'low' culpability categories

Systems were in place but these were not sufficiently adhered to or implemented

Low

Offender did not fall far short of the appropriate standard; for example, because:

- significant efforts were made to address the risk although they were inadequate on this occasion
- there was no warning/circumstance indicating a risk to health and safety

Failings were minor and occurred as an isolated incident

Sentencing Guideline for H&S Offences

Seriousness of harm risked			
	Level A <ul style="list-style-type: none">• Death• Physical or mental impairment resulting in lifelong dependency on third party care for basic needs• Significantly reduced life expectancy	Level B <ul style="list-style-type: none">• Physical or mental impairment, not amounting to Level A, which has a substantial and long-term effect on the sufferer's ability to carry out normal day-to-day activities or on their ability to return to work• A progressive, permanent or irreversible condition	Level C <ul style="list-style-type: none">• All other cases not falling within Level A or Level B
High likelihood of harm	Harm category 1	Harm category 2	Harm category 3
Medium likelihood of harm	Harm category 2	Harm category 3	Harm category 4
Low likelihood of harm	Harm category 3	Harm category 4	Harm category 4 (start towards bottom of range)

Likely level of fine - Como

Large Turnover or equivalent: £50 million and over		
	Starting point	Category range
Very high culpability		
Harm category 1	£4,000,000	£2,600,000 – £10,000,000
Harm category 2	£2,000,000	£1,000,000 – £5,250,000
Harm category 3	£1,000,000	£500,000 – £2,700,000
Harm category 4	£500,000	£240,000 – £1,300,000
High culpability		
Harm category 1	£2,400,000	£1,500,000 – £6,000,000
Harm category 2	£1,100,000	£550,000 – £2,900,000
Harm category 3	£540,000	£250,000 – £1,450,000
Harm category 4	£240,000	£120,000 – £700,000
Medium culpability		
Harm category 1	£1,300,000	£800,000 – £3,250,000
Harm category 2	£600,000	£300,000 – £1,500,000
Harm category 3	£300,000	£130,000 – £750,000
Harm category 4	£130,000	£50,000 – £350,000
Low culpability		
Harm category 1	£300,000	£180,000 – £700,000
Harm category 2	£100,000	£35,000 – £250,000
Harm category 3	£35,000	£10,000 – £140,000
Harm category 4	£10,000	£3,000 – £60,000

Likely level of fine – Mala & LDD

Medium		
Turnover or equivalent: between £10 million and £50 million		
	Starting point	Category range
Very high culpability		
Harm category 1	£1,600,000	£1,000,000 – £4,000,000
Harm category 2	£800,000	£400,000 – £2,000,000
Harm category 3	£400,000	£180,000 – £1,000,000
Harm category 4	£190,000	£90,000 – £500,000
High culpability		
Harm category 1	£950,000	£600,000 – £2,500,000
Harm category 2	£450,000	£220,000 – £1,200,000
Harm category 3	£210,000	£100,000 – £550,000
Harm category 4	£100,000	£50,000 – £250,000
Medium culpability		
Harm category 1	£540,000	£300,000 – £1,300,000
Harm category 2	£240,000	£100,000 – £600,000
Harm category 3	£100,000	£50,000 – £300,000
Harm category 4	£50,000	£20,000 – £130,000
Low culpability		
Harm category 1	£130,000	£75,000 – £300,000
Harm category 2	£40,000	£14,000 – £100,000
Harm category 3	£14,000	£3,000 – £60,000
Harm category 4	£3,000	£1,000 – £10,000

Likely Outcome – my view

- **Main Contractor – fine of £1.5 - £6m with a starting point of £2.4m**
- **The Electrical contractor – fine of £600k to £2.5m with a starting point of £950k**
- **The strip out contractor - fine of £600k to £2.5m with a starting point of £950k**