Will Olympic firm be charged with manslaughter?

A jury at a recent inquest into the death of Kieron Deeney, a young construction worker, returned the verdict of "unlawful killing". This verdict means the case must be referred to the Crown Prosecution Service (CPS) to see if manslaughter charges should be laid against any of the companies or individuals involved.

Kieron, an experienced, 25-year-old steel fixer fell 40 feet to his death when a hatchcover gave way at a Laing O'Rourke construction site in Canary Wharf, London in August 2004. This was an avoidable accident as he fell through an access point that was inadequately covered by an old piece of plywood fixed by two nails.

Kieron had only very recently married his wife Jennifer and they were planning a family when she received the news of his death. Jennifer said: "The Coroner's inquest into the death of my husband has been a very painful event. How many other families will need to suffer before sufficient action is taken to prevent these accidents from happening?"

Acting for the family, Sally Moore, of Leigh Day & Co solicitors, said: "Kieron's death was the result of Laing O'Rourke's failure to ensure that on-site health and safety procedures were adhered to."

Accidents involving falls from heights remain the biggest cause of workplace deaths. Health and Safety Executive (HSE) statistics show that41% of deaths are due to 'falls from a height', despite the new 'Work at Height Regulations 2005'.

Laing O'Rourke admitted responsibility for Kieron's death during a civil claim for



Kieron and Jennifer Deeney on their wedding day just months before he was killed on a Laing O'Rourke site

Continued from page 1

compensation in 2006, "but a financial payment is a poor substitute for a future that has been taken away due to incompetence" said Sally Moore.

Unlawful killing verdicts are very rarely delivered at inquests into workplace fatalities, however, manslaughter charges placed by the CPS arising from similar cases are even rarer. Campaigners have long criticised this as a major failing of our legal system and it has been the basis for demands for corporate manslaughter laws that would see negligent employers who kill workers face a homicide charge and a prison sentence.

Laing O'Rourke is an international business with a turnover of over £2 billion and 23,348 employees worldwide. Many more work on its sites. It was recently awarded the £100million contract for project managing the 2012 Olympics in a consortium with two other companies (see Daily Hazard 89 and 90).

Chairman Ray O'Rourke says: "We take pride in everyone returning home safely everyday"³, but like all major construction firms it has a poor health and safety record – see the table below. It also has a poor industrial relations record with sit-in strikes as recently as

2004 over terms and conditions of East European migrant workers on the Kings Cross Channel Tunnel Rail link. Strict safety targets have been announced for construction projects for London 2012 yet Laing O'Rourke's Site Safety Guide has almost nothing to say about consultation with workers, and nothing about recognising trade union safety representatives, a proven way of reducing accidents.

Laing O'Rourke, Laing and related companies: some HSE prosecutions from the HSE prosecutions data base.

Defendant	Offence date	Fine	Details of Offence	HSE Case No
J L O'Rourke & Sons Ltd	17.01.2002	£2,600	Employer on project where joiner was injured when joist failed under his weight causing collapse and fall. Joist was not adequately supported and persons were also working near open edges with risk of falling	2018469
Laing O'Rourke London & South East Ltd	26.07.2004	£12,000	Kelvin Jolly was injured when a 400kg gate came off its track and fell on him, because there were no end stops fitted to the gate. The gates were designed in house and had not been independently checked before fabrication and installation. The gates were in use seven months prior to the accident happening.	2023430
Laing O'Rourke Midlands Limited	4.2.2004	£10,000	Load incorrectly slung – part of load struck men working on ground	2014107
Laing O'Rourke Midlands Limited	17.2.2005	£100,000	Prosecution following fall of false-table 17/2/05 at the Beetham Tower site of the new Raddison Hotel complex, when ¾ ton of debris fell into public areas from 39/40th floor.	4014553
Laing O'Rourke Scotland Limited	18.6.2004	£1,250	Failure to prevent fall from 2nd floor slab of concrete framed building a the Taylor Woordrow development at Plot 2, The Western Harbour, Edinburgh by not fitting the proprietary Shorguard guardrail system correctly.	2016082
Laing Construction Wales and West Limited	6.01.2004	£17,000	John Elliot, IP, fell 4.5m through a hole in the concrete floor slab when he tried to move a sheet of 8'x4' plywood which was not marked "Hole below" and was not securely fixed down	2016354
John Laing Services Ltd	26.05.1995	£175,000	PR double fatality at Alembic House SE11. Overturn of mast climbing work platform during dismantling.	2013838

See Laing O'Rourke's Site Safety Guide at www.laingorourke.com/publications.htm which only says that "Every site will have one or more methods in place for site workers to raise safety, health and environment issues" but gives no details.

999: Health workers under attack

Punched, kicked, spat at and even killed. Violent attacks on NHS staff in London are on the rise.

Last year Cheryl Moss, who worked for 10 years as a nurse at St George's Hospital Essex, was stabbed to death taking a smoking break just outside the grounds of her hospital. Relatives said the fact hospital rules did not provide anywhere on the premises for smokers to go for a break contributed to her death. This murder was less than a year after St George's Mental Health Trust Tooting, South West London, was fined only £28,000 for a series of systematic failures which lead to mental health nurse Eshun Chattun being battered to death by a patient at Springfield Mental Health Trust. At the Old Bailey trial, the first time an NHS body was prosecuted at this level, the judge called the Trust's practices "seriously unacceptable". Mr Chattun had not received training in handling violent patients nor had he been issued with a personal alarm. The Trust told the court that after he was killed they had spent £2million on measures to prevent another

incident, and the judge took this into account when setting the level of the fine.

The Royal College of Nursing estimates that four out of every five nurses in accident and emergency departments are harassed or assaulted by drunk and disorderly patients.¹ A poll by YouGov showed that one in four NHS nurses considered quitting because of assaults;² with almost half saying they knew former colleagues who had quit because of violence and abuse.

Government figures show the number of people convicted of violent attacks against NHS staff rose 15 fold in two years with 759 successful prosecutions in England in 2004-05 compared to only 51 in 2002-03.

The most recent report shows a drop in assaults across the country but with some London hospitals bucking this trend and showing a rise and a worrying increase in violence in Acute and Foundation hospitals. And although there has been a slight drop in reported assaults in Mental Health and Learning Disability services: staff in this part of the NHS face an unacceptable and appalling level of

violence: one in five staff report incidents. The report says nationally there were 58,695 physical assaults against NHS staff in England, 1,690 fewer than 2004-5 – and one for every 23 staff members, down from 22 last year.

In London Barking, Havering and Redbridge Hospitals NHS Trust, reported 174 attacks on staff, an average of 24 assaults per 1,000 staff, and had the highest number of assaults. However there was a 50 per cent increase in the number of assaults on staff at Barnet and Chase Farm hospitals. Between April 2005 and March 2006, there were 107 attacks on staff at the two hospitals, equating to 23 assaults for every 1,000 staff. Over the same period the previous year, there were 72 attacks, or 17 assaults per 1,000 staff.

At Barnet, Enfield and Haringey Mental Health Trust attacks decreased by 30 per cent, from 298 to 207, over the same period. Just over 90 per cent of attacks on the Trust's staff take place in and around inpatient and outpatient wards such as those at Colindale Hospital and Edgware Hospital, while the rest occur when staff work with patients in the community.

Assaults on NHS Staff 2005-20063

Area of NHS	Number of assaults	Increase or decrease on last year	Rate of assaults
Ambulance Service	1,104	Down 229	1 per 29 staff members
Acute and Foundation hospitals	11,100	Increase of342	1 per 67 staff members
Primary Care Trusts	5,145	Down 47	1 per 68 staff members
Mental Health and Learning Disability Services	41,345	Down 1,752	1 per 5 staff members

¹ From a survey of 3,000 RCN of their members, February 2006

^{2 3 10 2005}

³ The report by the NHS Security Management Service (NHS SMS), who were created in April 2003 responsibility with for the management of security within the NHS. The full NHS SMS statistical report is available from: www.cfsms.nhs.uk/doc/sms.general/2005-06_violence_against_NHS_staff_per1000.pdf

Cranes Banned after three Deaths and Industry given a warning about crane safety

Falcon Cranes, the company at the centre of investigations into the recent fatal crane disaster in Battersea, which killed crane driver Jonathan Cloke and local resident Michael Alexa (see Daily Hazard No. 91) were issued a Prohibition Notice.

This was after another Falcon crane collapse in Liverpool city centre. The Battersea Crane Disaster Action Group (BCDAG) called for action by the authorities after the second collapse. In Liverpool the driver of the 120 foot crane had a miraculous escape but sadly a migrant worker on site was killed.



The Battersea Crane Disaster Action Group on 26th January

The Health and Safety Executive (HSE) Prohibition Notice was served on all 170 of Falcon's cranes taking them out of service so they could be inspected and checked costing the firm many thousands of pounds. The HSE also issued a notice to the whole industry to ensure cranes are properly erected ensuring bolts are correctly fitted and tightened to the right pressure.

Following the HSE's Prohibition Notice Mr. Alexa's mother and member of BCDAG, Liliana said: "At present I'm pleased, but they should have done this before. It's disgusting they needed to have more fatalities to take any action."

Julia Brandreth, Battersea and Wandsworth TUC, said: "We're glad that the pressure BCDAG is putting on site developers Barratts, Wandsworth Council and the HSE is paying off. We wrote to the HSE to demand a Prohibition Notice on 18th January and they issued one on the 19th January."

BCDAG Ceremony

On 26th January a ceremony was held at 8am at the Thessally Road site, to mark the arrival of new cranes. Relatives, local residents and trade unions, local Councillors and the MP, the Construction Safety Campaign, Barretts management and workers from the site remembered Michael and Jonathan. Work stopped for the event.

Prior to this a BCDAG deputation to Wandsworth Council to present a petition signed by nearly 600 local people forced the Council to agree to support a memorial to Jonathan and Michael to be placed opposite where the crane came down. A temporary memorial is to be put in place on Workers Memorial Day.

The group have also forced Barratts the main contractor to agree to provide different types of replacement crane jibs with a shorter reach – more within the confines of the site. These cranes will be inspected by an independent inspector before work begins and BCDAG can see the inspection report.

Battersea MP Martin Linton has placed an Early Day Motion EDM 710 in support of a publicly-available register of checks to cranes and construction equipment and a review of crane safety legislation. Check to see if your MP has given their support.

Early Day Motion EDM 710 http://edmi.parliament.uk/EDMi/ EDMDetails.aspx?EDMID=32398& SESSION=885

BADasbestos News

MOVES to ensure swift payouts to people suffering from the asbestos-related disease mesothelioma have been welcomed by Barking and Dagenham MPs Jon Cruddas and Margaret Hodge.

John Hutton, the Secretary of State for Work and Pensions, announced new proposals which aim to offer financial support to those not previously eligible.

The new measures will cover people who were:

- exposed to asbestos from a relative (eg their overalls)
- exposed to asbestos environmentally (eg lived near a factory using asbestos)
- self-employed

those who can't trace their exposure to asbestos.

Mesothelioma Action Day

BADasbestos organized a showing of the DVD produced to mark Action
Mesothelioma Day, 27th February, by the British Lung Foundation for the Asbestos Support Groups Forum. Mesothelioma sufferers describe how they were exposed, how they feel, and doctors explain some of the medical issues including the lack of spending on research into treatments; and the post-code lottery regarding access to the best treatments.

Pleural Plaques

Field Fisher Waterhouse won £26,000 damages for Ellis HIndson, 59, an engineer with The Thermal Insulation Company Ltd

between 1965 and 1976. His case is one of those heard in the High Court in 2004 in which the Defendants argued pleural plaques do not cause disability or chest pain and should not get damages. The other cases remain subject of a House of Lords appeal due to be heard in June 2007. Peter Williams took this case and said: "I hope the House of Lords will agree to restore the right of others to claim for this disease when they hear the test cases in June 2007"

BADasbestos Drop in Sessions

Drop in sessions are due to take place at Barking Town Hall between 3.30pm and 5pm on the following dates:

- ▲ Wednesday 25th April
- ▲ Wednesday 30th May
- ▲ Wednesday 27th June.

Construction deaths increase

The Construction Safety Campaign (CSC) has once again organised a march through London to commemorate Workers Memorial Day this year.

Provisional data from HSE shows that 74 people have died on building sites since April 1st 2006, a 14% rise on last years figure, and around 30% of all reported deaths in the UK. It is expected the number will continue to rise before the year-end on March 31st. A Prospect spokesperson said: "The rise in fatalities is no surprise to us. HSE is cutting construction inspectors by 10% by April 2008. They are planning for more job cuts and office closures." Prospect is the union for HSE staff.

2.7 million working days were lost in London in 2005-2006 because of injury and ill-health caused by work. There were 15 fatal injuries 2,531 major injuries, and in addition 12,195 cases reported which required three or more days off work. Stress, depression, anxiety and Musculoskeletal Disorders (MSDs) were by far the most common cause of absence.

In London Construction and the Services industries were the most hazardous sectors. The fatal and major injury rate in construction was 406 per 100,000 workers, while the Service sector has accounted for around 70% of fatal and major injuries in the capital since 2001.



Workers stop work in January this year to remember Michael Alexa and Jonathan Cloke.

Workers' Memorial Day Saturday 28th April 2007

Assemble 11am prompt at Holland St. next to Tate Modern, SE1

March to the statue of "The Building Worker" on Tower Hill, EC3 for a rally at 12.30pm. Jennifer Deeney, widow of Kieron, will lead the speeches to commemorate all those who have been killed at work.

Contact Tony O'Brien, CSC. 07747 795954 or email construction.safetycampaign@canhe.fsnet.co.uk

RMT calls for inquiry into tube deaths

Rail union, the RMT, has called for an independent inquiry into the circumstances surrounding the deaths of Daniel Edgar, 19, and Bradley Chapman, 21. The two men were killed when they ran into the path of a District Line underground train at Barking station depot in January 2007. They were suspected of being part of a group spraying graffiti witnessed by a security quard just before they were hit.

RMT say the presence of people on the line had been reported to the District Line control room, but the usual warning to drivers to proceed at an appropriate speed was not issued, so the train was traveling at normal speed.

The union alleges the electric current remained switched on for 15 to 20 minutes before the police were at the scene - when in such circumstances normal practice is the current is switched off immediately. And that the train operator, understandably in shock, had

been unable to leave his cab to find out the whereabouts and condition of those who had been hit. And that during this period they were put under intense pressure to move the train regardless and eventually did so.

RMT general secretary Bob Crow said: "The railways inspectorate has already been alerted to what appear to be serious flaws in the handling of this incident. There must now be serious questions over LUL's handling of the tragedy."

Health and Safety training

The London Hazards Centre (LHC) provides training on workplace health and safety which is suitable for managers and employees alike. The training is participative and will cover the problems encountered at the workplace, what to do to ensure controls are in place and that the law is complied with.

Our training is provided in two ways, either by running courses as a consultant or alternatively by people attending our in-house courses held in Islington.

Training consultancy

We will train up to 16 people per day for £550.00. We provide the trainer and course which is delivered at a venue organised by our client.

In-house training courses

Courses cost £65.00 per person and are held at the Red Cross building near the Angel, Islington which is fully accessible. Our current programme includes:

Introduction to Workplace Health and Safety

Tuesday 29th May 2007

- Introduction to Risk Assessment Thursday 31st May 2007
- Introduction to Workplace Health and Safety

Tuesday 5th June 2007

Introduction to Risk Assessment Thursday 7th June 2007

Our training is activity based and the timetable is from 10am to 4pm. We may request the client copy the course's training materials for participants.

We do not provide First Aid courses. These can be sought through the British Red Cross or St John's Ambulance Service.

We do not provide courses teaching proper handling technique but we do provide a course showing what is needed to complete the risk assessment requirements of the Manual Handling Operations Regulations.

We do not provide food hygiene or basic fire extinguisher use training. Your local Council's Environmental Health Department may be able to suggest local training providers for these.

Should you wish more information or to discuss any of the above please call LHC on 020 7794 599.





Call our telephone advice line – it's free!

The London Hazards Centre operates a free telephone advice line for Londoners, which is there to help people at work, at home and in the community with health and safety issues. We are funded to provide Londoners who can't afford to pay for professional advice and help with our free service. The Centre strives to ensure the advice we give is of a very high standard and is in language that lay people can understand. Because we are grant funded this means we can give information that is free from the influence of business etc.

We try to give honest, health based advice that takes into account current medical opinion and trends in concerns. The Centre has been at the cutting edge of advice on vast ranges of topics that are considered day-to-day now such as repetition strain injury (RSI), sick building syndrome, asbestos, computer based work, chemicals and pesticides at work and in the home, stress and many more.

So if you have a health and safety problem and need some advice – give us a call.

London Hazards Centre free telephone advice line: 020 7794 5999.

SUPPORT FOR COMPANIES

If your organisation needs regular health and safety support we have an annual subscription scheme that provides a discounted daily fee for scheme members.

CONSULTANCY AND REPORTS

We have recently been commissioned to produce longer reports on the environment, on contaminated land and a representatives hand book by AMICUS Clerkenwell and St Pancras branch, by Prospect and by NAPO. Contact us on the advice line number to discuss prices and our availability if you have an issue you wish to campaign or organise around.

The London Holands

The London Holands

The Following Society

The F

Construction (Design and Management) Regulations 2007

Introduction

The Construction (Design and Management) Regulations 2007 (CDM) completely replace the CDM 1994 Regulations and the Construction (Health and Welfare) Regulations 1996. The new CDM Regulations come into force on 6th April 2007. The Construction (General Provisions) Regulations 1961 have now been scrapped.

These regulations apply to just about all construction work defined as follows:

- a construction site is defined as "any place construction work is carried out" only excluding a workplace within (eg a site office) set out for other purposes – and covered by other safety regulation.
- construction work is broadly defined as any building, civil engineering or engineering project and includes alterations, renovations, maintenance, cleaning using high pressure abrasion or toxic or corrosive substances and demolition/decommissioning. It includes site preparation: clearance, exploration, investigation and excavation BUT excludes site survey. It covers processes involving prefabrication: assembly and deconstruction. It covers all work to do with services: electricity, gas, water, computers, telecommunications.

The format of CDM 2007

Part I: Introduction: the scope and definitions

Part 2: (Regs 4–13) General Duties which apply to all construction sites and work as described above Part 3: (Regs 14–24) Additional duties when projects are notifiable (that is HSE has to be informed about the work) which is when the construction phase is likely to involve more than:

- (a) 30 days; or
- (b) 500 person days of construction work. (Regulation2 (3))

Part 4: (Regs 26–44) Construction health, safety and welfare. This section reintroduces some measures from the Construction (Health and Welfare) Regulations 1996 including duties regarding stability of structures, demolition, excavations, vehicles, emergency procedures, fresh air, temperature and weather protection.

Part 5: (Regs 45–48) General additional measures including civil liability and fire.

The Schedules

Schedule 1 Particulars to be notified to the Executive or Office of Rail Regulation. Schedule 2 Welfare facilities: minimum standards regarding toilets (including for women), washing facilities (including showers), drinking water, changing rooms and lockers, and rest facilities (including provision for non-smokers) to be provided on site.

Schedule 3 Particulars to include in inspections (in connection with Reg 30 Excavations and Reg 31 Cofferdams and Caissons). This has to include matters identified as causing risks to health and safety/details of action to be taken/ details of any further action considered necessary; and the person doing the inspection.

Schedule 4 Details of the laws repealed and other changes made to introduce these laws.

Schedule 5 Amendments to other regulations needed (for example a reference to Construction (Health, Safety and Welfare) Regulations 1996 gets replaced by a reference to CDM 2007 in the Compressed Air Regulations 1996).

CDM aims to improve the management of health, safety and welfare through all stages of a construction project. It should ensure that safety information about a building is available for construction workers and users of the building after construction has ended.

Safety representatives can try to use the regulations to fight for better health and safety standards in all building work.

CDM places duties to plan, design, manage health and safety in construction work placing duties on clients, contractors and designers for all work; and, for work which must be notified to HSE, onto a new role of the CDM Co-ordinator (but broadly the same as the planning supervisor in CDM 1994 Regs) who is responsible for notification and for keeping the health and safety file, and on the Principle Contractor who has responsibility for the health and safety plan.

There are specific duties on each role and general duties to co-operate and co-ordinate with each other.

manage construction work in line with the principles of prevention (eliminate hazardous work if possible; then reduce risk as much as possible).

There is a duty concerning competency to ensure that all appointed are competent to do the work in a safe way; and, principally in the case of workers, to receive suitable training to become competent.

There is a duty to design, plan and

Managing Safety in Construction: what employers must do

The Client (Regs 14-17)

Must appoint the CDM-co-ordinator and a Principal Contractor for notifiable work; and ensure that they are competent and have sufficient resources to carry out their health and safety responsibilities.

Must ensure that construction work does not start until a suitable health and safety plan has been prepared by the Principal Contractor.

Ensure the health and safety file is available for inspection after construction.

The CDM co-ordinator (Regs 20–21) For notifiable work, the CDM Co-ordinator has to co-ordinate the health and safety

aspects of the project design and initial planning and must:

- Notify HSE of details of the project required in Schedule 1
- Ensure a pre-tender safety plan is prepared
- Ensure a safety file is set up and maintained and delivered to client on completion of the work
- Check that the designers comply with health and safety duties, are competent and co-operate with each other.

The Designers (Reg 18)

Must ensure that structures are designed to avoid risks to health and safety or reduce risks at source if they cannot be avoided altogether.

Must provide adequate information on health and safety and ensure this is passed to the CDM Co-ordinator for inclusion in the health and safety plan

The Principal Contractor (Regs 22–24) Must take over the health and safety

plan and ensure it is developed and implemented.

- Must ensure that contractors are competent and that they co-operate and comply with health and safety duties.
- Must ensure that contractors are provided with information
- Pass information for the health and safety file to the CDM-Co-ordinator
- Must ensure that employees are properly consulted, informed and trained.

The Health and Safety Plan

There should be a pre-tender plan which describes the work and risks to workers. Then a full health and safety plan must be developed for the construction phase. This should include:

▲ A description of the project

Arrangements for managing the project and monitoring compliance with health and safety requirements

▲ The risks to health and safety Arrangements for the welfare of people working on the project ▲ Guidance to the regulations sets out in detail the range of information which should be included in the plan.

The Health and Safety File

A health and safety file must be prepared providing the end user with information about the risks which have to be managed during maintenance, repair, renovation or demolition. This must be made available to anyone doing any future work on the structure.

Guidance to the regulations recommends that the file include:

- Drawings and plans
- ▲ The design criteria
- The construction methods and materials used
- Maintenance procedures for the structure
- Specialist operating and maintenance manuals
- Location and nature of all utilities and services including emergency and fire-fighting systems

Rights of direct employees and all workers controlled by someone else on site

The phrase "controlled by" is used to cover all the arrangements and tax dodges used by contractors to avoid directly employing workers with full employment rights. On health and safety, however, all building workers have rights:

- ▲ to health and safety information, site induction training and all training related to the construction work. A CSCS skills card is not sufficient there should be specific safety training on site.
- to express their views to the Principal Contractor about any health and safety issues related to the construction work.

Before starting work, the employer must provide:

- the name of the CDM co-ordinator and Principal Contractor
- the health and safety plan or relevant parts of it
- Building workers have a duty to report defects to the "controller"/employer/or contractor and if desperate they should report them to the HSE directly.

Action to take

Before starting work make sure that the employer or the contractor provides the health and safety information and training and find out the name of the Principal Contractor.

If you carry out any repair, maintenance or demolition on buildings in the future ask to see the health and safety file for the building first.

If you are a safety representative, use CDM to secure safe conditions for all construction work and work on buildings. Use the additional consultation, information and inspection rights under the Safety Representatives and Safety Committees Regulations 1977 to:

- ensure you are consulted and involved from the start check the health and safety plan
- check the name of the CDM Co-ordinator and Principal Contractor
- check that members have been given health and safety information and training
- check the health and safety file.

Resources

Managing Health and Safety in Construction the Approved Code of Practice (ACOP) and industry-approved guidance, to assist construction contractors, workers and design professionals. The ACOP is available from HSE books priced £15. (see www.hse.gov.uk/pubns/books/l144.htm)

Factsheets online www.lhc.org.uk London advice 020 7794 5999



Hampstead Town Hall Centre 213 Haverstock Hill, London NW3 4QP Tel: 020 7794 5999 Fax: 020 7794 4702 Email: mail@lhc.org.uk Website: www.lhc.org.uk

Registered Charity No. 293677





Funded by