

# BUILDERS MERCHANTS

Safety Compliance Across Multiple Branches





As every builders merchant knows, health and safety regulations are constantly being updated and it can be exhausting to keep track of the latest rules. In February 2016 'new' sentencing guidelines introduced formal steps for determining the level of fines at prosecution, even if the health and safety infraction had not (yet) resulted in accident or injury. Since these new guidelines were launched, builders merchants across the UK have seen, higher fines levied, and an emphasis on looking at 'risk of harm' as well punishing actual breaches of health and safety.

There is a high price to pay for even the smallest infraction, and preparation is the only way to prevent fines, lawsuits, employee injuries, and worse.



## SECTION ONE: WHY IS OPERATIONAL SAFETY SO IMPORTANT?

Simply put, poor operational safety will always come with a cost. The Health and Safety Executive (HSE) estimates that 160,000 workers suffered from work-related ill health between 2015 and 2017<sup>1</sup>, resulting in a loss of 31.2m working days between 2016 and 2017<sup>2</sup>. While this drop in productivity is considerable, it is secondary to the human cost. Although workplace injury statistics plateaued from 2010/11 to 2016/17<sup>3</sup>, injuries still represent an ever-present risk that will not go away.

### Case study: **Covers Builders Merchants**

In March 2017, Covers Builders Merchants in Chichester was taken to court after a customer suffered a crushed hand while delivering timber on-site. Covers pled guilty to being in breach of the Health and Safety in Work Act, and paid a fine of £120,000, plus an additional victim surcharge. Following the accident, the company immediately reviewed its health and safety processes, leading the judge to state that “the company should be lauded for its response”, before publicly urging other companies in the trade to review their processes<sup>4</sup>.

In a similar case, Avon Joinery was fined £230,000 after an employee severed a finger<sup>5</sup>. The company was judged to be culpable after failing to provide training or adequate supervision for using the machine, thereby breaching the Provision and Use of Work Equipment Regulation (1998).

A fine of any size can prove dangerous for small businesses, but larger institutions are now being fined proportionally depending on their annual turnover<sup>6</sup>. Since the publication of ‘new’ health and safety sentencing guidelines in February 2016<sup>7</sup>, there has been a marked increase in the levels of penalties levied against companies, resulting in 12 fines within the £1.5m-£3m+ range, compared with three such fines handed out in 2015, and none at all in 2014.

This has led professionals to note that simply embedding best practice and reacting to accidents is not enough. Health and safety professionals such as John Southall<sup>8</sup> have stated publicly

that culpability is simply part of the conversation for builders’ merchants<sup>9</sup>, with ‘incidents’ rather than ‘accidents’ being discussed.

“It is about the potential for harm,” said John Southall. “A company can be prosecuted for a health and safety breach where there is a serious risk of injury regardless of the lack of injury or ill health outcome.”

The key task for merchants now is how to prevent accidents (and ‘incidents’) from happening in the first place, by deploying measured health and safety practice and ensuring that all employees and contractors are fully equipped to carry out their roles.

# SECTION TWO: YOUR DUTY OF CARE IN APPOINTING COMPETENT EMPLOYEES

Employers have a legal requirement and duty to “protect the health, safety and welfare of their employees and other people who might be affected by their business”<sup>10</sup>. And while employers are not expected to enact processes that would be “technically impossible or if the time, trouble or cost of the measures would be grossly disproportionate to the risk”<sup>11</sup>, it is critical to have a strong operational backbone in place within your organisation.

There are three key questions which every builders merchant should be able to answer, whether you are a small family business or a multi-site corporate.

## ONE

### Who should take responsibility for health and safety in the company?

All companies should have an understanding of the role that managers and supervisors play in facilitating and encouraging sound health and safety practice. It is essential that businesses understand that health and safety is not a short-term measure - it requires a day-to-day commitment from all staff, from the top down. There must be some suitable in-house competence to oversee compliance with health and safety work regulations. If not, you should look externally for health and safety consultancy support to assess risks and implement adequate control measures, so that employees can work without fear of injury.

For employees, it is essential that they are fully trained to carry out their own specific role safely and effectively.

## TWO

### How can you demonstrate company-wide competence?

Effective practical risk assessment is the first step in demonstrating competence. This must go beyond a paper-based exercise where staff are consulted on their work activities. The findings of these risk assessments must then be implemented in practice through staff training and effective supervision to encourage safe working practices.

Poor practice should also be actively sought out and amended and staff should be encouraged to report accidents and near misses. Classic examples of near misses in merchants include lifting equipment failures, falling stock or two forklift trucks nearly colliding. Even if these incidents did not result in injury, they should still be reported to management and investigated as a near miss.

As a rule of thumb, regular visual safety checks should be embedded as a part of everyday practice. Lines of communication should also be created to raise issues and concern. And it is crucially important that employees implement their training and not face undue pressure to cut corners.

## THREE

### What should you consider when adopting your health and safety approach?

Depending on the scale of the merchant, different approaches need to be taken to achieve health and safety compliance. For smaller organisations, compliance guidance can be embedded by the business owner or manager. However, this can become problematic if workloads and branch numbers increase. Larger organisations are strongly advised to have at least one representative who can be counted on to act as a lead on health and safety issues, or look for external health and safety support.



# SECTION TWO (CONTINUED):

## THE FIVE KEY AREAS OF RISK

Some activities are naturally more prone to incidents and accidents than others. However, if you can get ahead of them early, they can provide a few quick wins for your health and safety compliance.

### 1. Safe storage and stacking of building materials

Securely storing and stacking materials is a crucial touch point for your work. Stock collapse can be catastrophic, and can easily result in serious injury to employees as well as significant damage to stored materials. Consideration should be given to the height of stacks, the stability of stacks and the ground conditions on which they are stacked. Any racking which is being used to store goods should be in good condition and subject to regular inspections as stipulated by the HSE<sup>12</sup>.

#### Case study: Jewsons

In 2014, the UK-wide chain Jewsons was fined £200,000 after an employee was crushed to death under a tower of timber. The judgement found that the accident would have been avoided if the materials had been racked safely, and the company admitted guilt and a failure to introduce a safe stacking system<sup>13</sup>.

### 2. Workplace transport

Between 2016 and 2017<sup>14</sup>, 137 people were killed at work in Britain, and 31 of those deaths involved a moving vehicle – this means that more than 22 per cent of all workplace deaths could have been avoided with proper vehicular safety. The key risk for builders' merchants is vehicle/pedestrian collision. In particular, the risk of forklift truck or lorry collision with members of the public or employees.

Forklifts and lorries should be segregated from pedestrians as far as possible by use of designated pedestrian walkways, barriers, areas out of bounds to customers (using signage) and adequate lighting and site layout.

#### Case study: South Coast Building Supplies

In 2015, Bournemouth-based builders merchants South Coast Building Supplies was subject to a £15,000 fine after a pedestrian was knocked to the ground by a reversing vehicle, suffering a crushed leg and permanent injury. South Coast Building Supplies admitted guilt under the Health and Safety Act (1974) and were also ordered to pay £8,632 of costs toward the prosecution. As part of the judgement, the firm was also ordered to bring in refresher training for all staff, a designated customer entrance, and clear signage to help prevent further incidents<sup>15</sup>.

### 3. Loading and unloading

During loading and unloading there is a risk of falling loads or drivers falling from the back of flatbed lorries. All loading activities should be conducted away from customers in a designated well-lit area, clear of traffic and overhead obstructions. Where access onto the back of a flatbed is essential, drivers should use the vehicle mounted ladder access and wear a hard hat with restraining device.

#### Case study: Travis Perkins

In November 2012, a customer died outside a Travis Perkins depot in Old Wolverton when loading and unloading protocol was not observed. The customer fell backwards while loading planks of wood onto the roof of his Land Rover, and he was crushed by a company vehicle which was operating in the area.

Travis Perkins was issued with a £2m fine and additional prosecution costs of £114,812.76 during a court hearing the following year. Following the case, the investigating officer said that "the company had failed to ensure loading and unloading activities were undertaken in a safe manner in a safe area."<sup>16</sup>



## SECTION TWO (CONTINUED):

### 4. Driving safety and visiting drivers

A quarter of on-site accidents and deaths occur when vehicles are reversing<sup>17</sup>, which means that all possible precautions should be taken to ensure the safety of workers and visitors on your site. This process should start with ensuring that site layouts have correct speed limits, signage, and lighting in place and that load safety is adhered to<sup>18</sup>. It is the company's responsibility to safely segregate lorries and pedestrians and in particular, reduce the risks associated with reversing through the implementation of a one-way system where possible. Visiting drivers should be given clear site safety instructions and directions so they know where to go and what the site-specific safety rules are.

#### Case study: South Lakeland District Council

In 2015 a council in the Lake District was fined £120,000 after 2 pedestrians were killed by reversing refuse vehicles within a year of each other. South Lakeland District Council was prosecuted after the HSE found it had failed to tackle risks from reversing vehicles<sup>19</sup>.

### 5. Manual handling

Manual handling poses a risk to all employees. It is therefore critical to ensure that your team does not cause injury to themselves or others, and each worker should be trained to assess any task by walking through three key steps:

#### 1. AVOID:

Take steps to avoid lifting and handling where possible by using a mechanical handling aid (e.g. a trolley or forklift).

#### 2. ASSESS:

If the task cannot be avoided, assess the activity to ensure that it is being undertaken in the correct way.

#### 3. REDUCE:

Undertake the task, implementing training received.

Cut injuries resulting from handling a variety of merchant products are common place. More and more merchants are providing yard staff with gloves to reduce the risk of cut injuries and associated lost time.



## SECTION THREE: HOW DO YOU ACCOUNT FOR BEHAVIOURAL SAFETY?

Once the obvious key safety risks have been controlled (e.g. fitting guarding to wood working machinery, replacing damaged racking, and implementing effective vehicle/pedestrian separation measures), we can focus our attention on behavioural safety.

Behavioural safety is a strategy that attempts to deal with the problem of human error – something that the HSE estimates contributes to some 80 per cent of work-related accidents<sup>20</sup>.

Safety-related mistakes fall into three general categories:

### SLIPS OR LAPSES IN CONCENTRATION

Such as picking the wrong item or missing a step in a procedure;

### ERRORS OF JUDGEMENT

For example, doing the wrong thing believing it to be right, possibly due to lack of training; and

### VIOLATIONS

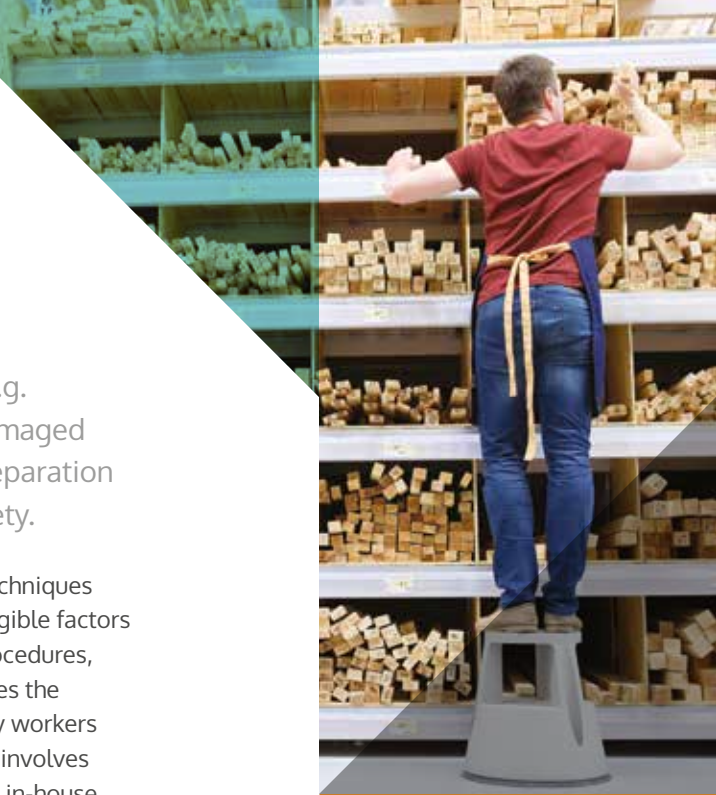
Deliberate departures from procedure, perhaps as a result of peer pressure, lack of understanding or poorly designed equipment or processes.

Unlike traditional safety techniques which tend to focus on tangible factors such as equipment and procedures, behavioural safety examines the psychology behind the way workers behave. In simple terms, it involves setting up a programme of in-house observation and reporting in order to find out how tasks are being done and how they can be made safer.

It can be used to identify builders merchant safety issues such as:

- Cutting corners to save time or effort;
- Insufficient training;
- Use of unsuitable tools or equipment for the task in hand;
- Lack of concentration due to tiredness or distraction.

To be successful, a behavioural safety programme needs to have the support of senior management as well as the workforce, who need to feel fully engaged in the process. An investigation into an accident or near miss is a good place to start when you are reviewing behavioural safety in your merchant.



### WANT TO LEARN MORE...?

Southalls offers a range of safety management programs for merchants.

To book a **FREE software demonstration or a consultation**, or to simply learn more about how we can help you to protect your business and employees, visit us at

[www.southalls.com](http://www.southalls.com)

# REFERENCES

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- <sup>1</sup> <http://www.hse.gov.uk/statistics/industry/construction/>
  - <sup>2</sup> <http://www.hse.gov.uk/statistics/dayslost.htm>
  - <sup>3</sup> <http://www.hse.gov.uk/statistics/causinj/>
  - <sup>4</sup> <https://www.chichester.co.uk/news/covers-fined-120-000-after-man-s-life-changing-injuries-1-7894078>
  - <sup>5</sup> <http://www.southalls.com/news/joinery-firm-fined-230k-for-severed-finger>
  - <sup>6</sup> <https://www.healthandsafetyatwork.com/regulation/sentencing-guideline-2015>
  - <sup>7</sup> <https://www.shponline.co.uk/sentencing-guidelines/>
  - <sup>8</sup> <http://www.southalls.com/meet-the-team/john-southall>
  - <sup>9</sup> <https://www.shponline.co.uk/sentencing-guidelines-accidents-assessed-crucial-understanding-culpability/>
  - <sup>10</sup> <http://www.hse.gov.uk/workers/employers.htm>
  - <sup>11</sup> <http://www.hse.gov.uk/pubns/hsc13.pdf>
  - <sup>12</sup> <http://www.hse.gov.uk/pubns/books/hsg76.htm>
  - <sup>13</sup> <http://www.dailyrecord.co.uk/in-your-area/building-firm-fined-200000-after-4739842>
  - <sup>14</sup> <http://www.hse.gov.uk/statistics/pdf/fatalinjuries.pdf>
  - <sup>15</sup> [http://www.bournemouthcho.co.uk/news/13844808..I\\_was\\_shopping\\_for\\_timber\\_\\_\\_then\\_forklift\\_truck\\_knocked\\_me\\_down\\_and\\_crushed\\_my\\_leg\\_/](http://www.bournemouthcho.co.uk/news/13844808..I_was_shopping_for_timber___then_forklift_truck_knocked_me_down_and_crushed_my_leg_/)
  - <sup>16</sup> <http://www.buildersmerchantsjournal.net/travis-perkins-fined-2m-after-customer-death>
  - <sup>17</sup> <http://www.hse.gov.uk/workplacetransport/information/reversing.htm>
  - <sup>18</sup> <http://www.hse.gov.uk/pubns/priced/hsg136.pdf>
  - <sup>19</sup> <https://www.letsrecycle.com/news/latest-news/lake-district-council-fined-rcv-reversing-deaths>
  - <sup>20</sup> Looking for higher standards: Behavioural safety – improving performance (IOSH booklet)  
[www.https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&ved=0ahUKEwjf8-OZtsPXAhWmLcAKHUuODgQQFghMMAQ&url=http%3A%2F%2Fwww.iosh.co.uk%2Fbehavioural&usq=AOvVaw2IlzRZ9ppPugQP5a2CFzoV](https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&ved=0ahUKEwjf8-OZtsPXAhWmLcAKHUuODgQQFghMMAQ&url=http%3A%2F%2Fwww.iosh.co.uk%2Fbehavioural&usq=AOvVaw2IlzRZ9ppPugQP5a2CFzoV)





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