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PRICE OF CONSTRUCTION DISPUTES MORE THAN DOUBLES AS COVID CLAIMS RISE

The average value of legal disputes in the UK construction sector more than doubled last year as claims linked to the pandemic rose.

Three out of four contractors said they were in disputes related to COVID-19, according to a report from Arcadis. The pandemic caused some sites to close and others to severely restrict worker numbers, which resulted in cost increases and delays.

The average value of disputes in the UK rose to £27.4m last year, up from £12.6m in 2019.

Bryan Cave Leighton Paisner partner Alexandra Clough said the problems caused by the pandemic will continue to affect disputes.

"COVID-19 claims that did not settle early are likely to have festered and become entangled with other problems on the project, making them larger and more complex, and therefore harder to resolve," she said.

Almost two-thirds of those surveyed said they expect coronavirus-related issues to influence claims in 2021.

The survey found that the most common cause of disputes in the UK was parties failing to understand or comply with their contractual obligations. Clough said this showed "how good project management can be pivotal in either avoiding disputes in the first place or nipping them in the bud".

Claims in relation to cladding and a resurgence of Brexit-related issues related to supply chains are likely to increase in the near future, she added.

Mayer Brown legal partner James Morris told *Construction News* that material shortages could also be liable for the increase in legal cases.

"Delay in performing a construction contract because of inability to obtain materials can have serious legal consequences," he said.

While struggling with their own costs, main contractors could also face claims from subcontractors who are struggling with the delays too.

"If a subcontractor has caused the delay, it can expect to receive a bill for all of these costs. A sufficiently long delay may even entitle the other party to terminate the contract and additionally claim the cost of a replacement contractor," he said.

The increase in claims comes despite the Cabinet Office urging the construction industry to avoid court cases over disputes in May last year. "Responsible and fair behaviour in contracts now – in particular in dealing with potential disputes – will result in better long-term outcomes for jobs and our economy," the government said.

12 TOP TIPS ON HOW TO AVOID COMMON RISK ASSESSMENT MISTAKES

1. EQUIP STAFF APPROPRIATELY

Anyone completing a risk assessment must be competent to do so. **Competence** can be defined as those with the necessary Knowledge, Ability, Training and Experience (KATE) to identify hazards and implement sensible, proportionate solutions. Organisations with a low risk profile can upskill anyone with responsibility for conducting risk assessments. HSE guidance (INDG163 (rev4) 'Risk assessment – A brief guide to controlling risks in the workplace') together with interactive e-Learning courses can help achieve this. In more complex organisations, risk assessor training packages are a great way to build competence.

2. INVOLVE OTHERS

Remember: risk assessment is not a singular effort. Collaborate with those who undertake the activity you're assessing and it is more likely you will emerge with something that is suitable and sufficient.

3. CROSS REFERENCE WITH OTHER ASSESSMENTS

Ask yourself what already exists in your organisation? Investigate to prevent duplication and/or possible contradictory messages.

4. CONSIDER HOW SOMEBODY COULD BE INJURED

Sometimes the terms hazard and risk are confused. The hazard (something that has potential to cause harm) must be identified separately. Against the hazard, provide a description as to the risk of how somebody could come to harm. For example, a rotating drill is a hazard and becoming entangled in it leading to significant injury is the risk. But the drill will present other risks which will demand separate attention, so make sure the reader is clear on what risk control measures control what risks.

5. REFERENCE APPLICABLE GUIDANCE

To ensure you're following industry best practice, look at guidance published by your national regulator, trade associations and other expert organisations in your sector. Where appropriate reference this guidance in your risk assessment to demonstrate robustness and increase confidence.

6. ADDRESS LIKELY POINTS

For any risk assessment, consider the following:

Access/egress

Health monitoring/surveillance

Maintenance and inspections

Pre-use checks

Previous accidents/near misses

Safe systems of work for higher-risk activities/tasks/equipment

Start-up/stop under normal conditions and isolation for maintenance

Training Risk assessments, particularly for machinery, must consider normal operating conditions and non-routine activities such as maintenance, inspection and cleaning.

7. AVOID GENERIC, AMBIGUOUS TERMS

For example, 'heavy' and 'PPE'. Instead, use more precise weight measurements, for example 'up to 25kg', and explicitly state the type of personal protective equipment (PPE) to be worn and the required standard of the PPE item (which can usually be found labelled on the item itself or in the manufacturer's instructions). Similarly, you must be specific with your statements, for example 'a person will/must/shall use hearing protection'.

8. PROVIDE A DEFINED MATRIX WITH DEFINITIONS

When using a quantitative scoring system, the reader should understand how the level of risk has been determined, hence descriptors of likelihood and severity should be clearly set out.

9. COMMUNICATE THE FINDINGS

There's no point carrying out a risk assessment if you are not going to share the findings with those who stand to be affected. Ensure risk assessments are shared with staff and obtain documented evidence that they have seen them. Select the most appropriate medium for communicating the message.

10. REVIEW RISK ASSESSMENTS OFTEN

This must be at least annually or whenever something changes, giving you reason to believe it may no longer be suitable and sufficient. An accident at work is one example of when you should review the adequacy of any relevant risk assessment.

11. STAY ORGANISED WITH A CENTRAL INDEX

As a quick reference guide, this should list all assessments and the dates reviews are required. Ensure you stick to these dates.

12. REFINE GENERAL RISK ASSESSMENTS

Creating 'general' risk assessments that reflect certain activities that are common throughout the workplace and across other sites can be a good starter for 10. But make sure the recipients of such risk assessments modify them if necessary, so that they are specific and reflect conditions on site.

HSE EBULLETIN - ASBESTOS UPDATE

[HSE has published a revised version of HSG248 Asbestos: The Analysts' Guide \(second edition - May 2021\).](#)

As guidance for analysts involved in asbestos work, this latest edition has been updated to take account of findings from HSE interventions and developments in analytical procedures and methodology.

It provides clarification on technical and personal safety issues, especially in relation to sampling and 4-stage clearances. New information on sampling soils for asbestos is also included.

The guidance is designed to assist analysts in complying with their legal obligations and should also be useful to asbestos consultants, occupational hygienists, health and safety professionals, asbestos removal contractors, building owners and facilities managers.

- [Download a free copy of HSG248](#)

You can also buy a hard copy at the [HSE Books website](#)



MENS HEALTH WEEK 14TH – 20TH JUNE

The rate of work-related stress, depression and anxiety has increased in recent years and the last year has presented new challenges - both physical and mental - that have never been faced before.

[Leading Men's Health Week \(14 – 20 June\) The Men's Health Forum asks: how do we move forward?](#)

As has always been the case, employers have a legal duty to protect workers from harm at work by doing risk assessment and acting on it. The earlier a problem is tackled the less impact it will have on workers and business.

So, what are the key health considerations for the construction sector?



Managing stress

Stress, depression and anxiety are the second biggest cause of work-related ill health in the construction industry. Recognising the signs of stress will help employers to take steps to prevent, reduce and manage stress in the workplace.

If you already have a risk assessment in place, consider whether you need to re-assess the situation due to changes and challenges brought about by covid-19. Social distancing, working from home (where possible) and all the other safeguards that have been put in place may have changed or created new stress.

Starting the conversation is an important first step in preventing issues. Our Construction Stress Talking Toolkit is aimed at small businesses with a regular workforce (employed and contracted) who want to start looking at this issue. It will also help site managers wanting to identify project-specific issues.

[Download the toolkit](#) for practical step-by-step guidance on how to begin and structure those difficult conversations.

Moving and handling materials

Pain and strain shouldn't be a part of work. If your workers lift and carry materials as part of their job they could be at increased risk of musculoskeletal disorders (MSDs). These include pain in the back, neck arms or legs, which can develop over a period of time.

Workers in construction are some of the most at risk, but there are things employers and workers can do such as planning ahead to deliver materials closer to where they're needed, reducing loads and using equipment and lifting aids to reduce the strain.

[Get more help and guidance on construction physical ill-health risks](#)

Preventing lung damage

Last year in the UK, 12,000 people died from lung diseases estimated to be linked to past exposure from work in a range of sectors. Breathing in certain gases, fumes, vapours and dusts on site can cause serious, long-term lung damage. The construction industry is a high-risk sector.

Check that the risk assessment control measures you have in place at work are effective to protect against work-related lung diseases such as asbestosis, silicosis, asthma, chronic obstructive pulmonary disease (COPD) and lung cancer.

These diseases cause severe, often incurable, health problems if the risks are not managed. If you're unsure of where to get help for the specific control measures needed for your business, our website has advice and resources to help you.

[Get more information and guidance on lung health](#)

BUILDER JAILED FOR FAILING TO REPORT LEG AMPUTATION

A site boss has been jailed for six months for failing to report a serious incident in which a worker had to have his leg amputated.



On 8 January 2019, Simon Lewis was clearing a site in New Malden, Surrey with an excavator so a new house could be built. The vehicle tipped while digging and it crushed his leg, resulting in amputation.

Westminster Magistrates' Court was told that Mr Lewis had requested a three-tonne model but a smaller, 1.7-tonne excavator was provided, and he was pressured to use it.

Site manager Paul Adams failed to investigate and report the incident to the Health and Safety Executive (HSE) as required under RIDDOR.

The HSE was only able to start an investigation more than eight months later when the victim complained. By this time crucial evidence relating to the cause of the incident was unobtainable and the work was almost completed.

Adams had not reported the incident even when prompted to by a solicitor, and despite his construction experience he had failed to take any interest in understanding his legal duties nor invest in health and safety.

He claimed in court that he had stopped working for months due to the impact of the incident, but evidence proved he had continued with the work.

The judge commented on how distressing it must have been for Lewis on top of his life-changing injury, to know the incident was not being investigated.

There was no health and safety related documentation and there was no employers' insurance cover for Lewis to claim against. Adams had not obtained any health and safety related training during his 50 years in the construction industry.

Adams pleaded guilty to a breach of Regulation 3(1) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR).

He was jailed for 24 weeks and ordered to pay costs of £2,033.

'This case reinforces how important it is that incidents are reported so they can be investigated, and improvements made to prevent serious incidents in future,' said HSE inspector Andrew Verrall-Withers.

AGA E-LEARNING COURSES

Whether you are looking to improve your own knowledge or provide training to employees, our E-Learning courses will guide you through the regulations, your legal duties, identifying hazards in your workplace and suitable control measures. Each course is followed by a short test to clarify your understanding regarding that topic, upon which after completion, you will be issued a certificate.

Each course costs £15+vat unless otherwise stated. The courses we currently offer training in are:

- Asbestos Awareness *Course cost is £20+vat*
- Abrasive Wheels
- Basic First Aid
- COSHH
- Display Screen Equipment (DSE)
- Falls Prevention – Working at height
- Fire Safety
- Fire Warden *Course cost is £20+vat*
- Health and Safety Level 2 *Course cost is £20+vat*
- Legionella Awareness
- Local Exhaust Ventilation (LEV)
- Lone and Remote Workers (Personal Security)
- Manual Handling
- Office Safety
- Risk Assessment
- Slips and Trips
- The Construction (Design and Management) Regulations (Overview)



For more information or to book our courses visit www.aga-ltd.co.uk/e-learning-courses.

FREE CDM ADVICE

[Continued Professional Development for all](#)

Do you need help understanding the CDM Regulations 2015? Not sure if you are complying with your duties correctly?

We offer a free CPD consultation to keep you up to date. One of our experienced CDM Consultants will host a virtual session and provide up to the minute, competent advice. We cover everything from Duty Holders to Design Risk Management and welcome any questions or scenarios you need help with.

Please get in touch if this would be of interest to you.

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