

This month, we cover a highly unusual prosecution taken by Police against two company officers for deliberately misleading inspectors during a WorkSafe investigation. We also look at the sentencing of two companies for failing to guard a void on the second floor of a building under construction as well as alerting building owners and property managers to WorkSafe's recent safety alert on ensuring anchorages for rope access systems are re-certified and competently maintained. In addition, we have articles on the recent sentencing of KiwiRail after a shunter was injured on the Awatere ferry, calls for tougher measures to protect engineered stone workers, and a reminder about fire safety and emergency plans following the tragic fire in Wellington earlier this month.

Police prosecute company officers for destroying documents relating to workplace incident

In a highly unusual move, Police have prosecuted the managing director of a Nelson-based marine engineering company on a charge of perverting the course of justice during a WorkSafe investigation. The man's brother, who was the company's health and safety officer, was also charged for making a false statement in relation to the same circumstances. Both men pleaded [guilty](#) in the Nelson District Court last month and will be sentenced in July.

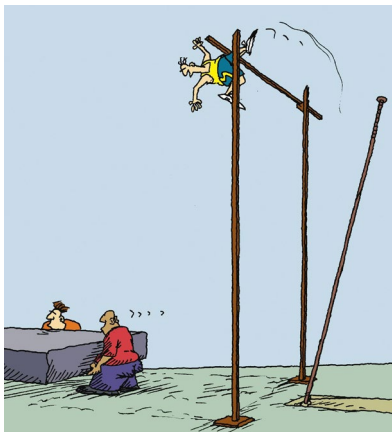
The prosecutions arose because of the pair's actions during a WorkSafe investigation into an apprentice's exposure to hydrocarbon-based brake cleaner which was being used to clean an engine room on a ship. The victim sustained serious injuries. In 2021, the company pleaded [guilty](#) to a WorkSafe charge brought as a result of the investigation. The company was fined \$250,000 and ordered to pay \$50,000 in emotional harm reparations and \$15,000 in consequential losses. It also had to pay \$1,434.12 in Court costs.

During its investigation, WorkSafe became aware that a

similar incident involving a worker and solvent exposure had occurred but this was repeatedly denied by the business owners. Evidence later came to light that the business had destroyed key documents to cover up the previous incident in what WorkSafe described as a "brazen decision". WorkSafe passed this information onto Police who carried out its own investigation and filed charges. You can read more about the Police prosecution in this [article](#) from Stuff.

WorkSafe's Chief Executive, Phil Parkes, applauded Police for prosecuting as well as the people who came forward with information. He also warned that: "Reducing exposure to harmful substances is one of WorkSafe's enforcement priorities. Businesses know the risks harmful chemicals pose to workers and the public. Our message is simple: there is no excuse, and WorkSafe will do everything it can to hold you to account." More information on managing the use of hazardous substances at work can be found on the [WorkSafe website](#).

Companies convicted after worker falls three metres through unguarded void



Both a construction company and a property development company have been [prosecuted](#) after a worker sustained serious spinal injuries when he fell three metres through an unguarded second floor void. The victim's injuries caused paralysis. He can no longer work as a builder and requires a wheelchair to move.

At sentencing, the construction company and employer of the victim was fined \$258,918.92 and ordered to pay reparations of \$61,464.20. A fine of \$175,000 was imposed on the property development company and reparations of \$46,386.20 ordered. WorkSafe noted that the construction company had a "worrying history around protecting its workers" and had been issued seven prohibition notices, two sustained compliance letters, one directive letter, and two improvement notices since 2017.

[Fall from height](#) remains a significant cause of death for workers in Aotearoa New Zealand. From February 2022 to January 2023, 14 people lost their lives in work related falls. Six of these fatalities were in the construction industry.

WorkSafe has extensive [guidance](#) on working safely at height. The controls that can be taken to minimise the risks of many falls are well known and relatively inexpensive. All PCBUs with the ability to influence or control fall from height risks should work together to ensure workers go home safely.

KiwiRail sentenced after injury to worker on Aratere ferry

KiwiRail was fined \$350,000, and ordered to pay \$30,000 in reparations and \$20,000 in prosecution costs when it was [sentenced](#) last month after an incident on board the *Aratere* ferry in 2021. KiwiRail also pleaded guilty to two additional charges of failing to notify Maritime NZ about the event and failing to preserve the scene.

The incident occurred when a KiwiRail shunt crew was unloading rail wagons from the rail deck of the vessel. The wagons easily connect on straight track, but there can be misalignment when connecting wagons on curves. This means that coupling wagons on a curve can create a risk of crushing injuries for anyone working in between the wagons. In the event, a shunt crew member suffered a

serious injury to his leg after he was pinned between two rail wagons after multiple attempts to manually connect them.

The Maritime NZ's investigation identified failures in KiwiRail's health and safety processes when moving rail freight on board the ship. KiwiRail admitted it failed to conduct effective hazard identification and risk assessment, develop and implement a safe system of work for rail shunting on board ferries, and to effectively monitor compliance with existing Safe Operating Procedures. Finally, it failed to provide effective supervision of crews when loading and unloading rail wagons.

NZCTU and CHASNZ call for tougher action to protect workers from accelerated silicosis

Accelerated silicosis has emerged as a significant threat to worker health in recent years. It is an aggressive form of lung disease caused by exposure to respirable crystalline silica dust (RCS) and is irreversible and progressive. The only treatment for the advanced disease is lung transplant. It especially affects those who work with the engineered stone that is often used in benchtops.

Workers may be exposed to RCS while cutting, grinding, sanding and polishing. [Radio New Zealand](#) reports that as at the end of February 2023, 140 claims for accelerated silicosis have been lodged with ACC for assessment.

The New Zealand Council of Trade Unions ([NZCTU](#)) and Construction Health and Safety New Zealand ([CHASNZ](#)) have recently called for tougher action from Government and industry to eliminate the harm from working with engineered stone and protect workers exposed to RCS.

The NZCTU says that warnings from WorkSafe have not resulted in improvement and there is a need for strong and swift regulatory action to properly protect workers, including moving towards a ban on the material, as Australia is currently doing. CHASNZ has reinforced this stance. Its Chief Executive says: "CHASNZ's view is that stronger measures are urgently required..." These may include banning the material or controlling it through strict licensing.

We wrote about accelerated silicosis and WorkSafe's response to it in Issues [9](#) and [25](#) of *The Safe Side*. There is also a wealth of material on WorkSafe's website about [safety](#) in the engineered stone industry and the wider Government Agencies' [response](#). In light of the increasing attention on accelerated silicosis, we would not be surprised to see a tougher stance on enforcement from WorkSafe.

Loafers Lodge is a tragic reminder about the potential devastation of structural fires

The tragic events at Loafers Lodge this month are a stark reminder of the potential for catastrophic outcomes from a structural fire. The risk of fire is present in almost all workplaces and the loss of life can be appalling. One of the most infamous incidents in American industrial history was the [Triangle Shirtwaist Factory](#) fire in March 1911 which killed 146 workers. [New Zealand's deadliest fire](#) occurred in 1947 when 41 people, mostly workers, were killed in the Ballantynes department store fire in Christchurch.

Preparing for emergencies such as fires is not only a good idea but something that all PCBUs must do under the Health and Safety at Work (General Risk and Workplace Management) Regulations. The Regulations say that a PCBU must prepare, maintain and implement an emergency plan for the workplace. You can find

information on emergency plans from WorkSafe [here](#).

The UK's HSE also has [guidance](#) on fire safety in construction covering four key steps: carrying out a risk assessment, and identifying the means of escape, giving warning and fighting a fire. Much of this guidance can be adapted to other workplaces.

Workplaces must also ensure they practice their emergency plans regularly; communicate their contents to new workers and those with a role in the plan; and review the plans on an ongoing basis and when there are changes that may affect them. They should also carry out regular inspections of the workplace to make sure that, amongst other things, exits and escape routes remain free of obstructions, and firefighting equipment is present and fit for purpose.

WorkSafe issues safety alert about anchor points for fall arrest systems on building

Building owners, facilities managers and property managers should take note of WorkSafe latest [safety alert](#) if they have permanently installed anchorages and lifeline systems on the buildings they have responsibility for or influence over. The anchorages are often found on high

rise buildings and are used by window washers and maintenance and service contractors to set up rope access systems. The anchorages must be maintained, inspected and recertified after installation in accordance with guidelines.