



Regulation 28 report to Coroner to prevent future deaths

Deceased – Adam Joseph Brunskill

To: Joanne Lees

HM Area Coroner for the Black Country

Black Country Coroner's Court, Jack Judge House, Halesowen Street, Oldbury B69 2AJ

[REDACTED]

[REDACTED]

HM Inspector of Health & Safety

19 Ridgeway, Quinton Business Park, Birmingham B32 1AL

CDM Regulations

I'm sure the Coroner is aware of the Construction (Design and Management) Regulations 2015, but other readers of this document may find a short precis useful, as this is the main piece of health & safety legislation governing construction sites:

These regulations, amongst many other things, define the roles and duties of those involved in a construction project. The Client must appoint in writing a Principal Designer (PD) and a Principal Contractor (PC). They are responsible for health and safety during the pre-construction phase and the construction phase respectively.

The PD may themselves engage Designers (architects, structural engineers, surveyors for example), and the PC will engage Contractors (often known as subcontractors)

In the construction phase, the PC is basically the site manager. They control and are responsible for what happens on site. Of course, Contractors have duties and responsibilities as well, but overall responsibility lies with the appointed PC for planning, managing and monitoring health & safety.

Further details can be found in the regulations themselves at <https://www.legislation.gov.uk/ukxi/2015/51/contents/made>

Roles and responsibilities on this site

The construction industry is commonly a gig economy. On a typical site, most individuals are nominally self employed in that they may well do their own taxes, but they are managed and monitored by the Contractor or PC who engaged them.

On this site, the PC was Proclad Developments Ltd. The Contractor in question was Wayne Clarey Roofing & Cladding Ltd. The company consists of [REDACTED], and the workers he commonly uses. He provided what is known as a “labour only” contract. He worked full time for Proclad. His workers worked full time for him. Wayne Clarey Roofing and Cladding Ltd do not determine the risk assessments or method statements, and are not part of the process, they are given these as instructions by Proclad. Wayne Clarey Roofing and Cladding Ltd do not decide on access arrangements or safety precautions, Proclad do. Proclad decided what was needed and booked the scaffolding. [REDACTED] and his workers were arguably employees of Proclad in all but name, in terms of managing their work. The revised Contract For Services document from Proclad seeks to alter or clarify this relationship, in ways addressed below.

Work at height

The Work at Height Regulations 2005 regulation 6(3) states that

“(3) Where work is carried out at height, every employer shall take suitable and sufficient measures to prevent, so far as is reasonably practicable, any person falling a distance liable to cause personal injury”

The Work at Height Regulations 2005 regulation 9 states that

“9.—(1) Every employer shall ensure that no person at work passes across or near, or works on, from or near, a fragile surface where it is reasonably practicable to carry out work safely and under appropriate ergonomic conditions without his doing so.

(2) Where it is not reasonably practicable to carry out work safely and under appropriate ergonomic conditions without passing across or near, or working on, from or near, a fragile surface, every employer shall—

(a) ensure, so far as is reasonably practicable, that suitable and sufficient platforms, coverings, guard rails or similar means of support or protection are provided and used so that any foreseeable loading is supported by such supports or borne by such protection;

(b) where a risk of a person at work falling remains despite the measures taken under the preceding provisions of this regulation, take suitable and sufficient measures to minimise the distances and consequences of his fall. ”

The dutyholder responsible for ensuring that roof workers are prevented from falling through the fragile roof to the floor below is the Principal Contractor.

Coroner's concerns and action taken or proposed

The **MATTERS OF CONCERN** are as follows. –

(1) The Coroner heard at inquest that Adam had been employed by Wayne Clarey Roofing and Cladding to work on a roof with no prior experience of working on a roof and no CSCS card nor had he completed a mandatory one-day Health & Safety course;

It is important to make clear HSE's view that regardless of his experience or inexperience, Adam Brunskill's death should have been prevented, not by training, but by the risk assessor recognising the fragile nature of the rooflights during their risk assessment, and by the consequent management of that risk. This could have been by means of avoiding the risk with collective means or personal means, by barriers or coverings, and by netting below to minimise the consequences of a fall through the fragile surfaces. The fall from roof to floor should not have been possible.

Whilst we do not believe that lack of training was the main cause of the accident, and believe that everyone must start somewhere, we do of course believe that health & safety training and awareness is important, that the CSCS card system is the industry established system, and fully agree with the Coroner that requiring this concern be addressed is important in the drive to prevent future deaths.

The Principal Contractor Proclad have recognised that their control of training for workers on sites should be improved. They have revised their Contract For Services document to state that subcontractors on site must ensure that they, and any other persons they bring on site, are trained to a minimum of CSCS card holder, with the 1 day health & safety course.

(2) On day 13/7/20 and 14/7/20 there was no evidence of a designated supervisor responsible for Adam on site and/or responsible for Adam's practical on the job training;

Similarly, whilst we do not believe that lack of a designated supervisor led to Adam's death, as it should have been prevented by physically stopping a fall from the roof to the floor below, we agree with the Coroner in this matter as well that future deaths may be prevented by improvements in supervision.

Proclad, as the Principal Contractor, have revised their Contract For Services document to state that subcontractors must appropriately supervise their workers, taking into account their experience, and ensure that additional steps are taken to provide support and supervision to inexperienced staff.

██████████ has said that he will not consider using inexperienced workers again.

(3) The Coroner did hear in evidence that one of the Principal Contractors who provided regular work to Wayne Clarey Roofing and Cladding would undertake to train any future unqualified employees of ██████████ and provide access to an accredited training qualification and training matrix. The Coroner also heard that ██████████ had legal responsibilities under the Health & Safety at Work Act and the Construction (Design and Management) Regulations 2015. However, there was no evidence of any clear designated structured training programme in place by ██████████ Roofing and Cladding for new and/or unqualified employees;

Proclad have previously paid for the training of employees of Wayne Clarey Roofing & Cladding Ltd, such as SSSTS (Site Supervisor Safety Training Scheme, the industry standard course), first aid and IPAF (International Powered Access Federation, the industry standard course to use scissor lifts, cherry pickers etc).

In their revised Contract For Services document, Proclad state that they are happy to provide support to subcontractors in facilitating training for workers, and to grant access to their training matrix systems. Wayne Clarey Roofing & Cladding Ltd will use this arrangement.

(4) The Coroner did hear in evidence that one of the Principal Contractors who provided regular work to Wayne Clarey Roofing and Cladding would undertake to train any future unqualified employees of [REDACTED] and provide access to an accredited training qualification and training matrix. The Coroner also heard that [REDACTED] had legal responsibilities under the Health & Safety at Work Act and the Construction (Design and Management) Regulations 2015. However, there was no evidence of any clearly identifiable supervisor and/or supervisory arrangements in place by Wayne Clarey Roofing and Cladding for new and/or unqualified employees;

In their revised Contract For Services document, Proclad state that their subcontractors must appropriately supervise their workers.

[REDACTED] and one of his workers had SSSTS, which is an appropriate level of supervisory training for them, for a team of four, including deputising cover if [REDACTED] was not on site.

(5) The Coroner did hear in evidence that one of the Principal Contractors who provided regular work to Wayne Clarey Roofing and Cladding would undertake to train any future unqualified employees of [REDACTED] and provide access to an accredited training qualification and training matrix. The Coroner also heard that [REDACTED] had legal responsibilities under the Health & Safety at Work Act and the Construction (Design and Management) Regulations 2015. However, there was no evidence of any appraisal system in place by Wayne Clarey Roofing and Cladding.

In their revised Contract For Services document, Proclad state that their training matrix system will be available to subcontractors. As Wayne Clarey Roofing & Cladding Ltd continue to work full time for Proclad, and they fully use their systems, this will include appraisals and training needs analysis.

Conclusions

It appears that Proclad have appropriate systems in place, which they are extending to their subcontractors where appropriate, including Wayne Clarey Roofing & Cladding Ltd

HSE investigations are completed, and reported to my line manager for consideration of any further action to be taken.



Signed

Name [REDACTED], HM Inspector of Health & Safety

Date 27th October 2021