

IN THE WESTMINSTER MAGISTRATES COURT

R (London Borough of Hounslow)

Prosecution

V

Do & Co Event and Airline Catering Limited

Defendant

JUDGMENT

1. On **23rd April 2025** the defendant pleaded guilty to the following charges laid before this court :

 - (i)** Between **01/01/2020** and **03/08/2023** at Hounslow, being an employer, failed to ensure, so far as was reasonably practicable, the health and safety and welfare at work of all your employees in that to provide and maintain safe systems of work at the site (details provided) contrary to s.2 and s.33(i) (a) of, and Schedule 3A to, the Health and safety at Work etc Act 1974
 - (ii)** Between **18/02/2022** and **12/04/2023** at Segro Logistics Centre, Segro Park, 200 South West Road TW4 6FD, being an employer, failed to conduct your undertaking in such a way to ensure, so far as was reasonably practicable, that persons who were not in your employment who may have been affected thereby, were not exposed to risks to their health and safety (details provided) contrary to s.3 and s. 33(i) (a) of and Schedule 3A to, the Health and Safety at Work etc Act 1974
2. This is a case that falls to be sentenced in accordance with the definitive guidelines prepared by the Sentencing Council in relation of Health and Safety Offences.
3. It needs to be said straightaway that this is a very sad, indeed, tragic case which has resulted in a fatality which has deprived the family of the deceased of a much-loved husband and father and a very well-liked and respected work colleague. The wife and daughter of the deceased have filed victim personal statements which speak movingly of their devastating loss which cannot be underestimated.

4. The Defendant is a catering company that provides catering, predominantly for airlines. It was incorporated in 2003 and began operating in 2004. It has no previous convictions.
5. The brief facts in this case can be summarized as follows :
On **11th April 2023** at **21:01 hours** at the Yard situate at Segro park, agency worker Kumar Limbu (**`Mr Limbu`**) was knocked down by a fork lift truck (**`FLT`**) driven by a fellow agency worker Khadar Ahmed (**`Mr Ahmed`**). Mr Limbu suffered catastrophic leg and pelvic injuries as a result of the collision. He sadly died in the ambulance an hour later. At the time of the accident Mr Ahmed's view was obstructed by the load his truck was carrying.
6. At the time of the accident, it is said that the weather and visibility conditions were wet, windy and dark. Mr Limbu was wearing an orange high visibility jacket.
7. At the time of the collision Mr Limbu was in the transport zone, that is to say, the area used by vehicles. It is accepted that there were no clear markings for pedestrians or transport zones. Furthermore there were no signage and no barriers demarcating pedestrian and vehicle areas and there was no requirement of compliance with any such demarcation.
8. There had been a number of Risk Assessments and Audits which are relevant for this court to detail :
 - (i) On **07/07/2021** a Department Safety Audit (**`DSA`**) was carried out. It listed a number of **`non-conformance`** issues, specifying whether these issues were **(a) critical (b) major or (c) minor**.(highlighting added) Those listed were as follows :
 - (a) lack of Traffic Management Signage (**minor**)
 - (b) a yardman seen not using the pedestrian walkway (**major**)
 - (c) risk of vehicle collision at bay 57 (**major**).The overall audit score placed it in the **red** category meaning that the issues were considered to be critical.
 - (ii) On **20/01/2022** a further DSA took place. It found that there was a lack of traffic management and that physical barriers to protect walkways should be considered (**major**). Furthermore, all relevant were to receive details of the safe system of work (**`SSOW`**) with non-conformance being (**minor**). The overall score was **amber** meaning that the safety issues were considered to be **major**.
 - (iii) Further DSA's were carried out on **16/03/2022, 11/08/2022** and **15/11/2022**.

Each of these audit reports found the same non-conformance issues, namely:

- (a) No site rules on entry, signage and speed limits
- (b) Consideration be given to installing physical barriers to protect walkways. These were considered **(major)**. All three of these reports had an overall score of amber ie the safety issues were **(major)**.
- (iv) a further safety report dated **06/01/2025** highlights that there were no visible maximum speed limit signs and that pedestrians were not using the designated walkways.

9. Risk assessments ('**RA**') had been carried out prior to 11/04/2023. The RA TRA-001 details a number of major risks said to then be affecting the Yard :

- (i) Contact vehicle with persons/unsafe site design
- (ii) Contact vehicle with persons / insufficient segregation between people and vehicles.
- (iii) Contact vehicle with persons / unsafe design, uncontrolled speed
- (iv) Adverse weather / water pooling

10. Exhibit GBE/6 is a particularly important document. It is a risk assessment dated 09/02/2023, just over 2 months prior to the accident in question. It highlights the risk of a person being struck by a FLT. It suggests a potential solution ... `` *Create a safe system of work which details movement and segregation in the yard with specific areas for the task designated* ``. However, this risk assessment was not reviewed by either a DO&CO manager or HSE representative.

11. Another FLT driver (Mark House) says that he became aware of the problem regarding flooding and standing water in the yard after rainfall, a problem which had worsened over a year. He adds that the issue had been reported to the transport manager, Richard Clague – attaching photographs – on several occasions.

12. The day after the accident in question, ie **12th April 2023**, Principal Investigator from the LB Hounslow, Graham Bellamy ('**Mr Bellamy**') attended the site with colleagues. The following was observed :

- (i) A worker was seen not wearing a high visibility jacket
- (ii) Workers crossing the yard, but not using the designated pedestrian highway
- (iii) No signs listing the site rules was present
- (iv) The pedestrian walkway markings were worn and faded in places
- (v) A catering vehicle was parked over part of the pedestrian walkway
- (vi) A high volume of traffic was noted.

13. Officers from LB Hounslow returned to the site on **25th April 2023** and the following was noted :

- (i) The pedestrian walkway markings in front of bays 49-57 were feint
- (ii) A heavy good vehicle (‘HGV’) was obstructing the main pedestrian parkway
- (iii) Pedestrians were seen walking past the HGV above without using the marked pedestrian walkway
- (iv) Whilst a worker was emptying a bin into a compactor, catering vehicles were observed entering the yard immediately behind him, there being no physical barrier.

14. On **3rd May 2023** a further inspection took place by representatives from LB Hounslow when the following was noted:

- (i) No faults were found on the FLT
- (ii) Some 10 workers were seen congregating in an area where vehicles travel with no physical barrier in place
- (iii) Pedestrians were seen walking along the yard but not using the designated pedestrian walkways. A number of other failings were noted including :
 - (i) No job description for yard supervisor (a role held by Mr Limbu) and there was failure to ensure that the yard was organized in a safe manner with the following missing / lacking :
 - (a) Signage
 - (b) Rules on display
 - (c) Supervision
 - (d) Segregated walkways
 - (e) Enforcement for safety breaches

15. The Defendant declined the invitation to attend for a voluntary PACE interview whereafter (on **16th November 2023**) Mr Bellamy wrote to the Defendant listing 96 questions of which 93 were not answered. However, the Defendant’s solicitor responded by pointing out their client’s good character and cooperation with the ongoing investigation and that, in their approach to the LB Hounslow, the Defendant had been open, honest and collaborative.

16. HSHE Ltd was a company retained by the Defendant as external health and safety consultants from 2015. The service provided by that company was to include advising, and revising as necessary, the health and safety policy; regular inspections and audits; the provision of a range of documented risk assessments; health and safety training for managers and employees; developing safe systems of work; and telephone and email advice and support as required.

17. Walk arounds are said to have been undertaken by senior managers to identify any hazards and discuss suitable mitigations with consultants from HSHE, with risk assessments and relevant findings written by them, as well as HSHE consultants taking responsibility for actioning resultant steps.

18. A senior health and safety consultant, Mark Harris ('**Mr Harris**') is said to have been on site at the venue 5 days every other week until March 2022 whereafter his attendance reduced to 3 days per week thereafter, whereupon a junior consultant is said to have attended the site 3 days per week.

19. This court has been informed that HSHE has accepted that Mr Harris failed in his risk assessment of the risks of pedestrians being struck by a FLT, inter alia by not suggesting the use of marked walkways and high visibility clothing as control measures.

20. The Defendant readily acknowledges that placed over reliance upon those attending from HSHE. However, at the time of the accident, the Defendant points out that it did have health and safety policies and procedures in place, that it utilised a number of written risk assessments, and had relied upon an external health and safety expert.

21. In short, the Defendant asserts that there were systems in place, but they were not sufficiently adhered to or implemented. It is submitted on the Defendant's behalf that the court is here not dealing with a company that adopted a flagrant or reckless disregard for the law or matters relating to health and safety.

22. The Defendant points out that after the accident in question it :

- (i) Dispensed with the services of HSHE in a timely fashion
- (ii) Restructured the senior management team
- (iii) Health and safety and risk assessment Policy documents have been re-assessed and updated
- (iv) Has established a Health and Safety staff committee
- (v) Established the digitization of processes enabling audits and complaints to be dealt with more efficiently.
- (vi) Changed the audit arrangements, providing for this to be carried out by the internal team.
- (vii) Put in place an improved list of daily compliance checks
- (viii) Provided smoking shelters behind pedestrian barriers
- (ix) Updated induction training
- (x) Implemented a new traffic management plan

(xi) Arranged for a British Safety Council review to be conducted in relation to its safety systems.

23. I am told that the Defendant has spent circa **£12.5 million** on Health & Safety related items, maintenance and equipment between **September 2022** and **May 2025**.

24. The Defendant reported the accident to the Health and Safety Executive in a timely manner and maintains that it offered its co-operation with the ongoing investigation (this latter assertion is not accepted by the Prosecution).

25. Albeit there are 2 charges to which the Defendant has pleaded guilty, the order of this court is that the fine to be imposed will attach to the 1st charge and that there be no separate penalty imposed for the 2nd offence.

26. The Sentencing Guidelines:
Step One – Offence Category :

27. Culpability: The Prosecution say that this case falls to be dealt with as involving High Culpability on the part of the Defendant. The Defence asserts that, in the round, it should be considered a Medium culpability case.

Decision :

I agree with defence submissions that the Defendant's culpability has factors from both High and Medium which need to be balanced in assessing the appropriate level of culpability. As mentioned, I find that there are elements of High Culpability, but the evidence filed also shows that there were systems in place which were not sufficiently adhered to or implemented, ie Medium Culpability.

I shall sentence between the two bands.

28. Harm

(A 2 stage approach is required)

(i)

Seriousness of Harm Risked -

It is acknowledged by both parties that this is a **Level A – Category 1**. I agree with this assertion.

(ii) Likelihood of Level A harm arising as a consequence of the specific breach.

The Prosecution say that the likelihood of such harm being risked is **High**, whereas the Defence assert that it should be considered to be **Medium**.

29. In order to appropriately assess the level of Harm risked, this court is next to consider is whether the offence :

- (a) exposed a number of workers to the risk of harm, and
- (b) was a significant cause of actual harm.

Decision :

I consider that the offence exposed a number of workers to the actual harm. I accept that the vast majority of the over 4,000 employees did not have access to the yard where the accident occurred, however a small number of them did have occasion to access the area, and this would have been throughout the lengthy operating periods of the yard (day and night). I am also satisfied that the offence was the 'significant' cause of actual harm in this case.

30.**Step 2** – Appropriate Starting Point :

I am satisfied that, in the light of its recent annual turnover, the Defendant falls to be treated as a Very Large Organisation which enables this court to proceed outside the current Sentencing Guidelines, should it consider it appropriate to do so.

31.**Sentencing Range :**

- (i) If Culpability is **High / Category 1** then the starting point set out in the Guidelines is **£2,400,000** and the range is between **£1,500,000 & £6,000,000**.
- (ii) If Culpability is **High / Category 2** then the starting point set out in the Guidelines is **£1,100,000** and the range is between **£550,000 & £2,900,000**
- (iii) If Culpability is **Medium** then the starting point in the Guidelines is **£600,000** and the range is between **£300,000 & £1,500,000**.

32.**Decision :**

It is important to bear in mind that this is not a purely mechanical exercise. In my opinion the seriousness of Harm risked was **Level A : Category 1** (Death).

33. I find that the likelihood of such harm in this case was High as I am in agreement with the submissions made by the prosecution in relation thereto albeit I am proceeding on the basis that, as mentioned overleaf, I find that **there are elements of Medium and of High Culpability**. I bear in mind that I am dealing with a Very Large Organization.

34. (i) Aggravating and Mitigating Features.

(a) Aggravating :

I do not find that there are any aggravating features applicable to this case. The prosecution made representations to the effect that this is a case where there was cost-cutting at the expense of safety, however, I do not find that this assertion has been made out.

(b) Mitigating :

(i) As mentioned heretofore, the Defendant has no previous convictions.

(ii) Evidence has been filed which shows a number of steps taken voluntarily after the accident in question to seek to remedy the problems.

(iii) There was early self-reporting, co-operation (though I find not to the extent sought by the Prosecution) and acceptance of responsibility.

(iv) The Defendant has had a good health and safety record.

35. I am satisfied that this case falls to be dealt with as one with a number of 'High' culpability factors ;

(i) ignoring concerns previously raised (as noted in the evidence filed)

(ii) failing to make appropriate changes following prior incident(s) (as noted in the evidence) exposing risks to health and safety

(iii) allowing breaches to subsist over a long period of time.

However I am also satisfied that the following Medium culpability factor applies :

(i) offender fell short of the appropriate standard in a manner that falls between 'High' and 'Low' culpability.

(ii) Systems were in place but these were not sufficiently adhered to or implemented.

36. Step 3 & Step 4 – The court is to review any financial element and consider factors that may warrant adjustment:

The defence submit that a downward reduction is required to reflect that :

(i) the Defendant is said to be heavily reliant on a single contract with one airline and a reduction of the Defendant's services is anticipated in the near future.

(ii) albeit between **2022 & 2024** the Defendant's total turnover was **£680,000,000**, the net profit after tax for that period is said to have been **£18,000,000** - ie **2.8%** of turnover.

37. Decision :

I would point out that this court has not been provided with a copy of the contract referred to between the Defendant and the airline, however an analysis of the accounts filed shows that the airline in question is British Airways.

38. The Sentencing Guidelines make clear that the fine must be sufficiently substantial to have a real economic impact which will bring home to both management and shareholders the need to comply with health and safety regulations.

39. The court is required to `step back` and, if necessary, adjust the initial fine to ensure that it fulfils the general principles laid down in the Guidelines. The Court may adjust the fine upwards or downwards including outside the range. I bear in mind the Defendant's hitherto good character, early plea, genuine remorse as well as the measures that it has taken since the accident in question and which merit an appropriate downward adjustment.

40. Step 5 & Step 7 – It is agreed that these are not applicable in this case. I am told - and accept - that a civil action is ongoing in relation to the deceased and therefore the question of compensation does not arise for this court to determine.

41. Step 6 – Reduction for Guilty Pleas.

Decision : The Defendant is entitled to - and is to be given -full credit for having pleaded guilty at the earliest opportunity.

42. Having given careful consideration to the submissions ably made by counsel for both parties, and having proceeded in accordance with the Sentencing Guidelines, the conclusion of this court is that the Defendant is to pay a fine in the sum of £2,450,000.

43. Costs

The Prosecution have provided a schedule of costs with an appropriate breakdown. No contrary representations are made by the Defendant. I therefore make an order that the Defendant pay the full amount of costs sought, namely **£47,091.25p.**

44. I will hear representations from the Defendant with regard to time to be allowed for full payment of the fine and costs.

John Zani

District Judge (M.Ct)

25th June 2025