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# ONR Enforcement Management Model Enforcement Decision Record (EDR)

| **ENFORCEMENT DECISION RECORD** | |
|---|---|
| Classification Marking: | |
| Title: Fall on scaffold stairs, [redacted] | Dutyholder: Enigma Industrial Services Ltd |
| ONR Division & Sub-division: SDFW | Date: 21/10/21 |
| EDR No.: ONR-EDR-21-037 | File Ref: CM9 2021/79462 |

## RELEVANT BACKGROUND

*Provide a brief history of the incident and include how was this matter identified / revealed to ONR, with any relevant references?*

To provide additional canteen facilities for [redacted] during the Covid 19 pandemic Sellafield Ltd arranged for the construction of a temporary overflow canteen. The canteen is an inflatable dome structure on a scaffold platform. Several contractors were involved in the installation of the dome, including Enigma Industrial Services who designed and built the scaffold platform for the dome and the stairs at four corners of the platform.

The scaffold platform is a working platform as defined by the Work at Height Regulations (Regulation 2 – interpretation). As such the Work at Height Regulations apply to the platform and to the means of access to and egress from the platform.

The scaffolding platform was at a height of 1.6 metres. Access and egress to/from the dome was provided by the permanent [redacted] steps, however four sets of tube and fitting scaffold stairs, consisting of 5 – 7 steps had been erected at the four corners of the scaffold platform. Some witnesses stated that these scaffolding stair towers were for emergency use only and personnel using the welfare dome should use the permanent [redacted] steps however, in practice, the scaffold steps were in general use.

On the day of the incident (25/03/21) the IP went into [redacted] to get a drink, then walked out of the main building towards the dome. He noticed that it was full so walked to the scaffolding stair tower on the left-hand side as he exited the main [redacted] building (the location of the incident is shown on slide 1 of 2021/49756, where the steps are labelled ‘back right steps’). As he was walking down the steps he appeared to stumble and then fall down the steps, breaking an ankle and dislocating both knees.

Sellafield Ltd undertook an investigation and identified a lack of consistency with the rise height of the scaffolding steps. Some steps had a rise height greater than

225mm and others less than 175mm. Relevant good practice provided by the National Association of Scaffolding Confederation (NASC) Guidance (TG20) states that the rise of scaffolding steps should be within the range of 175 mm – 225 mm, with the length of the going defined by the height of rise adopted. It is not known whether this lack of consistency contributed to, or caused, the fall. The IP states that he does not know why he fell.

ONR has no first-hand knowledge of the dimensions of the scaffold steps: the going, the rise and the angle. Sellafield had removed the steps before ONR could get to conduct the on-site investigation.

The scaffold platform and steps were erected by Enigma scaffolders who had all received industry accredited training commensurate to their roles, including training in the construction of tube and fitting scaffold steps. However, the scaffolders who supervised and erected the scaffold steps commented that they rarely built them, so it is likely that they had had limited opportunity to put their training into practice.

The scaffold steps were inspected at regular intervals, by the scaffolding supervisor, up until the incident. The discrepancies in rise heights had not been identified.

The scaffolders were working off drawings showing the dimensions of the scaffold platform and the configuration of the components to ensure adequate strength and stability of the platform. Whilst the stairs were indicated on the drawing, the dimensions of the stairs were not included. RGP TG20 states that staircases made from tube and fitting must be designed if the height is greater than 1.5 metres. The scaffold platform, as shown on Enigma's drawing, is 1.6 metres. TG20 also gives instructions on how to work out the dimensions of steps in relation to the going, the rise and the angle of the staircase.

The scaffold was requested via a scaffold request form completed by One FM/Mite, one of the contractors working on the project. The form does not specify the requirement for stairs.

It is possible that the inconsistent rise heights contributed to the incident.

The underlying causes of the accident include:

- The scaffold steps had not been designed
- The assembly plan/drawing did not include details for the stairs or instruction on the erection of the stairs.
- The training for the supervisor and scaffolders erecting the stairs appears to have not been regularly put into practice.
- TG20 was not consulted in regard to the building of tube and fitting scaffold stairs and how to work out the correct dimensions.
- The scaffold steps had been inspected prior to handover and at regular intervals, by the scaffolding supervisor, up until the incident. The discrepancies in rise heights had not been identified.

*What, if any, initial follow-up has been carried out by ONR?*

An enforcement letter was sent to Sellafield Ltd requiring them to ensure that the scaffolding steps at [redacted] were adjusted to meet RGP in the NASC guidance on going/rise dimensions. The letter also required Sellafield Ltd to confirm that similar steps erected by Enigma on the Sellafield site were compliant with RGP (Ref: ONR-EL-21-001, 2021/49744).

Sellafield Ltd sent a written response confirming that that the scaffolding steps outside building [redacted] had been re-configured and now met RGP. Sellafield Ltd also confirmed that other Enigma erected scaffolding steps met RGP (Ref: 2021/49731). A sample of these was inspected by the site safety inspector during a site visit in May 2021. It was established that the steps met RGP. At the time of that visit, the steps had been removed from the scaffold platform outside [redacted] and use of the dome suspended.

There has been no formal enforcement action against Enigma to date.

*What, if any, action has been carried out by the dutyholder in response?*

A full design drawing for 'permanent' stairs, complying with Part 7 of the Building Regulations, was produced by Enigma and approved by Sellafield Ltd. The stair treads have been covered by a GRP overlay to ensure it is suitable for all types of shoes. The stairs were checked by a subject matter expert prior to handover. These actions were in response to Sellafield Ltd's plant modification proposal for the welfare dome that was amended following their management investigation.

**APPLICATION OF THE ONR EMM**

DETERMINE THE RISK LEVEL (not applicable for Compliance and Administrative Breaches)

*Explain the basis for this decision (Table 1 of Enforcement guidance).*

The risk level is **moderate**.

The consequence of the incident is **significant** in that the IP has sustained injuries that may lead to permanent disability leading to a lifelong restriction in work capability or a major reduction in quality of life.

The key control measures necessary to comply with the Work at Height Regulations, Regulation 8 (Schedule 3) have been significantly **weakened.** The key control measures include:

1. An assembly plan put together by a competent person. Enigma had produced a standard drawing for the scaffold platform, but this did not set out instructions/dimensions etc for the scaffold stairs. Detailed design information

relating to dimensions of the going and the rise etc were not included. It was left to the scaffolders to decide how to install them.

2. Training/competence: The scaffolders had undergone appropriate training for their roles, which included erection of stairs, but it appears that they had had limited opportunity to put that training into practice.

3. Supervision: Schedule 3 to Reg 8 of the Work at Height Regulations states that scaffolding may be assembled, dismantled or significantly altered only under the supervision of a competent person. The supervisor does not appear to have been actively supervising the work of the scaffolders as he gave no instruction re the scaffold steps, did not check TG20 and failed to identify that the steps, as erected, were not in accordance with TG20. The supervisor 'signed off' the scaff tag indicating that the scaffolding was safe to use.

4. Inspection of work equipment after installation and at suitable intervals. Although the scaffolding had been inspected, the inspections were not adequate in that they failed to identify the issues with the rise heights of the steps.

DETERMINE THE LEVEL OF COMPLIANCE (for Compliance and Administrative Breaches)

*Explain the basis for this decision (Table 4 of Enforcement guidance)*

DETERMINE THE BENCHMARK STANDARD

*State the authority and the title of the benchmark standard (Table 2 of Enforcement guidance).*

The benchmark standard is **defined**:
**The Work at Height Regulations 2005, Regulation 8,** Requirements for particular work equipment:
8. *Every employer shall ensure that, in the case of a working platform -*
*(i) Part 1 of Schedule 3 is complied with; and*
(*ii) where scaffolding is provided, Part 2 of Schedule 3 is also complied with.*
*Part 2 of Schedule 3:*
*Depending on the complexity of the scaffolding selected, an assembly, use and dismantling plan shall be drawn up by a competent person. This may be in the form of a standard plan, supplemented by items relating to specific details of the scaffolding in question.*
*Scaffolding may be assembled, dismantled or significantly altered only under the supervision of a competent person and by persons who have received appropriate and specific training in the operations envisaged.*

**The Work at Height Regulations 2005, Regulation 12,** Inspection of work

equipment:
*(1) This regulation applies only to work equipment to which regulation 8 and Schedules 2 to 6 apply.*
*(2) Every employer shall ensure that, where the safety of work equipment depends on how it is installed or assembled, it is not used after installation or assembly in any position unless it has been inspected in that position.*
*(3) Every employer shall ensure that work equipment exposed to conditions causing deterioration which is liable to result in dangerous situations is inspected at suitable intervals.*

DETERMINE THE BASELINE ENFORCEMENT LEVEL (BEL)

For Risk Decisions (Table 3 of Enforcement guidance)

For Compliance and Administrative Arrangements (Table 4 of Enforcement guidance)

*State the BEL to secure compliance with the law.*

**Enforcement letter**

APPLICATION OF FACTORS

Dutyholder Factors (Table 5 of Enforcement guidance)

*Consider the relevant factors and explain how they have been applied in this instance and if they have had any impact on the BEL, to conclude enforcement action.*

*The Factors are:*

1. *What is the inspection history of the dutyholder? Not known*
2. *What is the level of confidence in the dutyholder? Reasonable*
3. *Does the dutyholder have a history of relevant formal enforcement? No*
4. *Is there relevant incident history? No*
5. *Is the dutyholder deliberately seeking economic advantage? No*
6. *What is the standard of general compliance? Reasonable*

Strategic Factors (Table 6 Enforcement guidance)

*Consider the relevant factors and explain how these have been applied in this instance. If the strategic factors aren't met then discuss the enforcement action with the appropriate delivery lead.*

*The Factors are:*

1. *Does the action coincide with the public interest? It is appropriate for the public interest test that some formal enforcement action is taken because of the severity of the injuries and that the injuries occurred to a third-party individual, akin to a member of the public.*
2. *Does the action protect vulnerable groups? Not relevant*
3. *What is the long-term impact of the action? Enforcement action should help bring about sustained compliance.*

4. *What is the effect of the action? Positive*
5. *What is the functional impact of the action? The action should help secure compliance with benchmark standards and is comparable to action taken by other regulators such as HSE.*
6. *Does the action align with the principles and expectations of the EPS? PACTT would be met.*

ENFORCEMENT ACTION RECOMMENDATION

Record the recommended enforcement action here.

Enforcement letter to Enigma Industrial services requiring them to review and revise their improvements to the process for designing scaffolding, to ensure scaffolders are competent to install scaffold stairs and to ensure that scaffolds are adequately inspected before being handed over to the client and at regular intervals.

| Role | Name | [redacted] | Date |
|---|---|---|---|
| Inspector | [redacted] | | 21/10/21 |
| Peer Reviewer (Discretionary) | | | |

DELIVERY LEAD REVIEW – (To be completed by Delivery Lead)

The review process requires delivery lead to consider; that the application of strategic factors is addressed by the proposed enforcement action; whether the proposed enforcement action meets the Enforcement Policy Statement. If prosecution is to be considered that the enforcement action is aligned to the Code for Crown Prosecutors in England and Wales or the Prosecutors Code in Scotland; in this situation, the case needs to be developed in the Investigation and Prosecution Report and summarised in this section (Include within the review statement the reason the review was initiated).

*Note: This section is not applicable to an enforcement decision recommendation of prosecution.*

*If the decision review concludes that a different enforcement outcome to that recommended is appropriate, then this shall be justified by the delivery lead in this section.*

*Should the proposed enforcement action be below the original BEL, then this justification is expected to provide full detail of the rationale for that decision, and the decision should also be independently reviewed, usually by the Operational Inspection Professional Lead.*

I support the inspector's recommendation of an enforcement letter (ONR-EL-21-029 (CM9 2021/79469) which is at the original BEL and is a proportionate, targeted response to addressing shortfalls identified as part of investigation ONR-INV-21-002 (CM9 2021/79458).

| Role | Name | Signature | Date |
|---|---|---|---|
| Delivery Lead | [redacted] | [redacted] | 8/11/21 |
| Operational Inspection PL (if proposed enforcement is < BEL) | | | |

**ENFORCEMENT OUTCOME (To be completed by Delivery Lead)**

*State the Enforcement Action (include any file reference to how the enforcement action was communicated to the dutyholder).*

*Check:*

- *Ensure that the enforcement action deals with the most serious risks in order of priority, and in appropriate timescales.*
- *That the cause of the risk is addressed.*
- *Underlying problems addressed.*
- *That the enforcement action takes into account the scale of the failures, e.g. isolated or multiple failures.*
- *The enforcement action deals with the fundamental cause of the problem(s), e.g. workplace precautions, risk control systems or management arrangements.*

My 'Delivery Lead' comments above are relevant.

Enforcement outcome is Enforcement letter ONR-EL-21-029 (CM9 2021/79469) with progress tracking though associated Level 3 Regulatory Issue RI 9055.

Investigation report ONR-INV-21-002 (CM9 2021/79458) refers.

ONR-EDR-21-036 (CM9 2021/79464) covers application of the EMM to Sellafield Ltd.

| Delivery Lead Print Name: | Signature: | Date: |
|---|---|---|
| [redacted] | [redacted] | 8/11/21 |

Differences of opinion should be rectified by utilising ONR guidance on Resolving Differences of Regulatory Opinion in ONR; NS-INSP-IN-002.
Convey the enforcement outcome to the dutyholder.
Send completed form to the CNI office for processing.

**PUBLICATION SUMMARY:**

For notices or directions the following summary will go onto the ONR website. For notices, publication will be once any appeal period has completed.

This may not be appropriate due to security considerations in all cases, if this is the case then please state below – 'Not for publication on security grounds' and discuss with the communications team.

| | |
|---|---|
| Enforcement Action | |
| Served against | |
| Description | |
| Breaches | |
| Compliance date | |