

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

5 OCTOBER 2020

1. RESULT OF RECENT FIRE SAFETY PROSECUTIONS

Report of the Chief Fire Officer

RECOMMENDED

THAT the details of the fire safety prosecutions be noted.

2. PURPOSE OF REPORT

This report is submitted to inform the Authority of the result of prosecutions under the Health and Safety at Work etc. Act 1974 and Regulatory Reform (Fire Safety) Order 2005.

3. BACKGROUND

- 3.1 This section of the report relates to Unit 3, Doal Trading Estate, Rolfe Street, Smethwick, and the prosecution pursued by this Authority against two defendants, Fireworks Direct (Midlands) Limited and Mandeep Singh Doal, who were each charged with 4 offences contrary to the Health and Safety at Work etc. Act 1974 (HASAWA) and The Regulatory Reform (Fire Safety) Order 2005 (FSO). This was as a result of the discovery of an excessive amount of fireworks in a trading estate unit 2 doors away from where a serious fire was in progress on 1 August 2018.
- 3.2 The storage unit was licensed to store 250kg net explosive content of fireworks. There was 873kg present.
- 3.3 The intention to prosecute the defendants was notified to the Authority at the meeting on 18 November 2019.
- 3.4 The matters were heard at Wolverhampton Crown Court on 20 May 2020 before His Honour Judge Barry Berlin. The offences against each defendant included overstocking, failure to apply separation distances, failure to review the risk assessment and failure to maintain a working fire alarm.

3.5 The company pleaded guilty to all offences and received a fine of £84,000 to be paid within 3 years and were ordered to pay costs of £8,815.24. Mr Doal was sentenced to 17 months' immediate custody. He was not ordered to pay costs of £11,036.90 because he received immediate custody.

3.6 The legislation contravened was:

HASAWA section 33(1)(c) and the Explosives Regulations 2014;
Regulation 26(1)(b) – overstocking

HASAWA section 33(1)(c) and the Explosives Regulations 2014;
Regulation 27(1) – separation distances

HASAWA section 33(1)(c) and the Management of Health and
Safety at Work Regulations 1999; Regulation 3(3) – review of risk
assessment

FSO Article 17(1) – failure to maintain fire alarm

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required and has not been carried out.

5. **LEGAL IMPLICATIONS**

5.1 The Health and Safety at Work etc. Act 1974 and Explosives Regulations 2014 in relation to the storage of fireworks place a general duty on duty holders to keep people safe from fire or explosion. The Regulatory Reform (Fire Safety) Order 2005 places a general duty on Responsible Persons, and others who have control to any extent, to provide general fire precautions to keep people safe in case of fire. The Order imposes a statutory duty on Fire and Rescue Authorities to enforce the provisions of the Order. The 1974 Act imposes a similar duty in Metropolitan Fire and Rescue Authorities.

5.2 It is the intention of the Authority to revoke the licence to store explosives currently issued to Mr Surjit Singh Doal because at the time of the offence he was named as a co-licensee with Mr Mandeep Singh Doal. Mr Surjit Doal later asked for Mr Mandeep Doal's name to be removed from the licence leaving him as the sole licensee.

5.3 It is also the intention of the Authority to refuse to issue storage licences to the company, Mr Jaswinder Doal, Mr Mandeep Doal and any of their related companies. These matters are dealt with in a separate report.

6. **FINANCIAL IMPLICATIONS**

The total costs of bringing the prosecution were £19,852.14 of which £7,397.50 were Fire Service costs (company - £3,300.00; Mr Doal - £4,097.50). The Judge ordered the company to pay full costs.

7. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications arising from this report.

BACKGROUND PAPERS

Fire Safety Files

Authority Report – Notification of Fire Safety Prosecution 18 November 2019. Document reference – AU/2019/Nov/92910195

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