



# Man Up, or Man Down? Health surveillance at work: a case study

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When thinking about health and safety, court cases are, perhaps unsurprisingly, focused on safety. Many cases arise out of an incident in a workplace which has immediate and catastrophic consequences. But what of the “health” bit of health and safety?

Statistics published by the [Health and Safety Executive](#) suggest that 1.4 million workers in Britain suffered from ill health at work in 2017/18. The causes are many and various, ranging from physical conditions, such as work related lung cancer, to mental health conditions such as stress, depression or anxiety.

## Occupational health surveillance

In some industries in particular, there is a requirement on employers to carry out occupational health surveillance for workers liable to be affected by certain risks. The starting point is to assess the risks from hazards such as noise, solvents, fumes, asbestos, dusts or lead, and then to introduce measures such as training or health surveillance if workers are liable to be exposed beyond tolerable limits.

Celtic Rock Services Limited was a company formed in the 1970s. It specialised in cliff stabilisation, work which often involved workers using power tools such as rock drills or jackhammers, often whilst abseiling down a rock face. The three workers on whom the case concentrated said that they used these tools for hours and hours at a time, work which sent vibrations through their whole bodies.

## Warning signs

From the mid-1990s, one of the three started to notice problems with his hands. He was getting pins and needles, and his hands were aching. In 2007, another one of the men started to notice tingling in his hands, and white patches on his fingers and a loss of feeling. The third experienced similar problems from about 2005.

In fact, these are all classic symptoms of Hand Arm Vibration Syndrome (HAVS). HAVS can result in vascular or bone and joint disorders, or nerve disorders. Sufferers can experience, amongst other things, discomfort and pain resulting from poor blood circulation, clumsiness from damaged nerves, or loss of grip strength or an ability to straighten fingers.

Guidance about HAVS has been available for many years, and the [Control of Vibration at Work Regulations 2005](#) are directed specifically at the risks of vibration.

At Celtic Rock, the workers would mention the symptoms they were experiencing to Mr Alwyn Thomas, their manager and a director of the company. This would often be at the end of a shift, when reporting back to Mr Thomas about the work done. The men said that Mr Thomas would either ignore the concerns raised, or tell the men to stop moaning or say that he experienced similar symptoms himself.

It is completely unacceptable for employers to tell the workforce to “man up,” or to brush off their concerns! These are vital clues that something is wrong, and that action needs to be taken.

## What could the company have done differently?

The investigation which led to the court case pointed to an absence of a suitable and sufficient risk assessment. Had there been an attempt to assess the risk, on a conservative estimate, the level of vibration that Celtic Rock’s workers had been exposed to on a daily basis greatly exceeded the limits set out in the regulations.

In this case, Celtic Rock did not arrange for health surveillance to be carried out until 2016, when the three men each saw an Occupational Health Nurse for the first time. That was years after the men had started to mention their symptoms. They were all diagnosed with HAVS. One of the men described excruciating physical pain and mental health effects so serious that he was unable to work again.

Celtic Rock Services Limited and Alwyn Thomas were convicted of offences contrary to the [Health and Safety at Work etc Act 1974](#). In August 2019, a judge in the Plymouth Magistrates’ Court sentenced the company to pay a fine of £36,667, based on its size. Mr Thomas was given a 12 week custodial sentence, suspended for a year, and a 12 week curfew. Both were also ordered to pay a share of the prosecution’s costs.

## Need advice?

*Michael Veal is the Head of Lester Aldridge’s regulatory team and acted for the Health & Safety Executive in this case. For advice about criminal or other legal aspects of regulation, please visit see our [Regulation & Business Crime](#) page, e-mail [Michael Veal](#) or telephone us on 0344 967 0793.*