



Monitoring contractors – a lesson for landlords following the Alexys Brown case

“Hold your children a little tighter and love your family a little harder. You never know when you won’t be able to anymore.” Those were the words spoken in January 2019 by the mother of five-year-old Alexys Brown, who became trapped and died in a lift at their home in Weymouth in August 2015.

The case brought against Synergy Housing Limited (a housing association and part of the Aster Group) and Orona Limited (a lift maintenance company) brings home the importance of monitoring the work of specialist contractors. A failure to do so can have devastating consequences.

The facts

In brief, the facts of the case were that, due to a disability suffered by one of their other children, Matthew and Lorraine Brown were allocated a house in Weymouth which was equipped with a lift. The property was owned by Synergy. The lift should have been the subject of regular inspections: proactive servicing and reactive maintenance, work which Synergy had contracted to Orona, and “thorough examinations” (spot checks), which Synergy’s insurance company was to carry out.

The key failings identified in this case were the failure of systems of both companies in relation to this lift. Synergy did not keep on top of the maintenance schedule and there was even confusion for a period as to whether the lift was even still at the property. The result was that the lift was not inspected at all between December 2013 and May 2015.

In May 2015, Orona did inspect the lift. Its engineer noted that the vision panel in the lift door was smashed. Orona failed, however, to either act upon that information itself or to communicate it to Synergy. The failure of that vision panel ultimately resulted in the fatal incident three months later.

The judge, on sentencing the companies, noted that “No one should ever lose sight of the fact that this was industrial machinery operating in a domestic setting with young children present. That should have resulted in the most careful assessment of safety measures and controls at all times.”

Fatal consequences of failures in paperwork

No doubt, Synergy had the best of intentions when appointing Orona to undertake specialist lift maintenance work, which it did not have the expertise to do itself. What this case highlights, however, is that that is not enough.

Synergy's systems were not robust enough to ensure that the checks which should have been carried out were, in fact, being done and, when they were, that it was being told of the outcome. Orona's systems failed to identify that it was not servicing the lift as often as it should, or communicating, in one critical instance, its findings.

The ability to keep on top of a schedule or paper trail does not require specialist knowledge or expertise. This notion is not limited to the monitoring of lift maintenance in tenanted properties. In today's world, we have any number of serious pieces of machinery operating in places in which all manner of people, including vulnerable groups, may be exposed to the consequences of them going wrong.

Criminal penalties

On 15 January 2019, the judge sentenced the companies, finding that they were wholly responsible for Alexys' death. He fined Synergy £1 million and Orona £533,000. The difference between the fines was principally attributable to the difference in size of the companies, rather than any difference in their culpability.

No fine imposed by the criminal courts can reflect the loss to her family of Alexys Brown. This lesson, about shortcomings in administration, should not have been theirs to learn.

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