


# Readers Letters



*Ian Simpson of the HSE has highlighted the risks associated with what he calls Hybrid lifts and writes an open letter to Colin Wood of the CPA outlining the situation*

**Colin,**

As you are aware this is a subject that I spoke about at the Mobile Crane Open Meeting at Vertikal Days at Haydock last year.

Lifting Operations with a mobile crane are covered by the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER). In support of the regulations the Health and Safety Commission published an Approved Code of Practice and Guidance to LOLER - L113. All HSC Approved Code of Practices (ACOP) have a special legal status. If a person/organisation is prosecuted for breach of health and safety law, and it is proved that they did not follow the relevant provisions of the code, they will need to show that they have complied with the law in some other way or a court will find them at fault.

LOLER Regulation 8 requires that all lifting operations are:

- a) Properly planned by a competent person
- b) Appropriately supervised
- c) Carried out in a safe manner

Within L113 there is reference in several places to the BS7121 standards. It should be noted that these references are within the guidance rather than ACOP or Regulation sections.

British Standard Code of Practices have a different legal standing to ACOPs. The HSE commends the use of each standard to those that have duties under the Health and Safety at Work etc Act 1974, and states that the standard was drawn up with the participation of representatives of the HSE and will be referred to in relevant HSE publications. British Standard Codes of Practice are therefore not legal requirements, but rather act as a Bench Mark and guidance, that may be referred to in court, as to what is Best Practice, what is reasonably practical, and how a duty holder may comply with the law.

Persons planning and undertaking lifting operations are free to deviate from the guidance provided in a British Standard Code of Practice so long as they still comply with the law.

Within BS7121 guidance is provided on two alternative methods by which lifting operations may be undertaken. These being a "Contract Lift" or a "Crane Hire" with which I am sure you are very familiar.

Your enquiry and the subject of my talk at Vertikal Days was the movement by certain sections of the crane hire industry towards a hybrid arrangement, somewhere between a Contract Lift and a Crane Hire. In this case the crane hire company and the organisation requiring the lifting operation will have deviated from the guidance contained within BS7121. As such they will no longer be able in court to claim compliance and the onus will be on them to demonstrate that the route they have chosen provides an equal or better level of safety.

As I am sure you are aware BS7121 lists out duties and responsibilities for the various members of a lifting team. In a hybrid lift situation it is essential that all of these duties and responsibilities are picked up by someone and not forgotten or neglected.

When HSE is considering enforcement action it is important that any potential action is targeted, proportional, transparent and consistent. To ensure consistency the Inspector will bench mark the actions of the duty holder against the LOLER ACOP, LOLER Guidance and BS7121. The inspector will be looking to ensure that all of the duties and responsibilities have been appropriately discharged by each duty holder. They will in particular be looking to identify the person in charge of the lifting operation. In a Contract Lift or Crane Hire this person is relatively easy to identify. In a hybrid lift the Inspector, and for that matter a court, will have to make that decision themselves. Thus consistency in enforcement would be difficult to achieve.

In summary if a company goes down the Hybrid route they need to think very carefully about the consequences and satisfy themselves that they are in full compliance with the law and the system they choose to follow is as good as or better than the British Standard.

I hope this is of some help.

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*Ian Simpson will be back at Vertikal Days, Haydock on July 25th to talk about Best Practice with tower cranes in a free seminar held in the on site conference suites*

## Letters to the editor:

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