

## Paul Adorian

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**From:** Paul Adorian  
**Sent:** 25 May 2011 16:14  
**To:** "chair@hse."  
**Cc:**  
**Subject:** FW: Flying Garden at Chelsea Flower Show

**Importance:** High

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**From:** Paul Adoria  
**Sent:** 25 May 2011 13:09  
**To:** 'judith'  
**Subject:** Flying Garden at Chelsea Flower Show  
**Importance:** High

Dear Judith Hackett,

You probably won't remember me but just to provide some instant background information, I founded and ran IPAF for some 23 years and have been involved in the powered access industry for the last 45 years. I have always had a very close relationship, at all levels within your organisation, as a result of my very strongly held views regarding safety in our industry, which you will know relates to the lifting of people in mobile elevating work platforms and on occasions, lifting of people in platforms attached to cranes.

It is on this subject that I am writing to you urgently, having been shocked by the misuse of a crane for lifting people in a "flying garden" at The Chelsea Flower Show this week.

This use of a mobile crane to lift the garden carrying passengers breaks just about every rule in the book and flies in the face of regular Bulletins issued by your organisations since the 1970's relating to JOY RIDING IN MEWPs OR BASKETS SUSPENDED BENEATH CRANES.

There is no way this machine can comply, as it could never be CE certificated as a MEWP due to so many non-compliances and if it is treated as a crane with a platform suspended, again it defies the Regulations relating to that equipment when it carries people.

Your organisation has made it clear, throughout related industries, that the carrying of people in platforms, or suspended baskets, should never be used for "joy-riding" and if ever there was a serious case of "joy riding" this surely is it!

Your organisation has also put out very strict instructions on the use of cranes for carrying people in suspended baskets which state that "this form of access should only be used for essential purposes when no other means is practical" or words to that effect.

I am aware that the responsibility for health and safety at the Chelsea Flower Show falls under The Royal Borough of Kensington and Chelsea and I spoke with Mrs Linda Powell, their Chartered Environmental Health Practitioner Policy Officer – Commercial, on Monday morning, who arranged for her health and safety expert, assigned to the Chelsea Flower Show, to contact me later that morning, which he did. I explained to him, at some length, why this use of the crane should not be allowed. He advised me that the HSE had made it clear to him that this situation was the Borough's

responsibility and admitted to me that he knew nothing about the legislation for such use of a crane and undertook to take advice from the HSE before looking into the matter again.

I have heard nothing further from the Borough and I note that the crane is still being used and taking passengers up to 80ft in the air.

If you allow this to continue, it is sending out a terrible message to all those people who use powered access equipment, or cranes fitted with personnel baskets, as it is clearly flouting all the regulations and Directives to which the industry is committed. This function is not necessary under any circumstances – it is a clear case of “joy-riding” for the purpose of publicity and I appeal to you to take urgent action to have this nonsense stopped, as I feel, if this is allowed to continue for the rest of the Show, you are allowing this Irish gardener to drive the equivalent of a coach and horses through the Regulations, which have taken nearly thirty years to reach their present effective state and it sets an example, to anyone so inclined, that the legislation means nothing where high profile activities of entertainment are concerned in our capital city and this is surely an appalling message to be transmitted at a time when safety at height has such a high profile throughout our industry.

In conclusion, I have alerted the national media of this situation, as I feel I must use every avenue to try and bring this absurd performance to a speedy end and I do so much hope that you will take the steps that are necessary without delay.

Yours sincerely,

Paul A Adorian

P.S. In view of the urgency of this matter, in case you are not in your office, I have copied this e-mail to Phil Papard and Joy Jones who, of course, are specialists in this field. PAA.

**Paul Adorian**

---

**From:** Tim.Galloway  
**Sent:** 27 May 2011 11:50  
**To:** paul@e  
**Cc:** Chair@  
**Subject:** Flying Garden at Chelsea Flower Show

Dear Mr Adorian,

Thank you for your emails to Ms Hackitt's office, which were passed to my team for action. Before I go on leave today, I thought I would update you on HSE's response.

On receipt of your original message we discussed the issues you raised with the relevant enforcing authority, the Royal Borough of Kensington and Chelsea. Our discussions with the Borough suggested that sensible precautions have been taken in the unusual circumstances presented by the Flying Gardens. Consequently, we do not propose any further action.

Yours sincerely,

Tim Galloway  
Head of Operations, London

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## Paul Adorian

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**From:** Paul Adorian <...>  
**Sent:** 31 May 2011 14:44  
**To:** '(cha' ^' ...  
**Cc:** 'Mict  
**Subject:** Flying Garden at Chelsea Flower Show  
**Attachments:** HSE e-mails.pdf; Access Now Autumn 1985.pdf; Access Now Autumn 1990 Accident at Fire Station Open Day.pdf; Access Now Spring 1990 HSE Warn Against using work platforms for joy rides.pdf

**Importance:** High

**Contacts:** Judith Hackitt

Dear Ms Hackitt,

It was a pity that my e-mail to you of 25<sup>th</sup> May will have reached your office as you were setting off to Australia because I am sure, had you been here, you would have grounded the 'Flying Garden' at the Chelsea Flower Show and avoided a situation which, I feel, must cause the HSE more than a little embarrassment, following the failure of your officials in London to follow advice given out by the HSE to the access and lifting industry over many years in respect of the use of mobile elevating work platforms for joy-riding.

I have attached the correspondence between myself and members of your organisation which will be self-explanatory and more importantly, I am attaching extracts from issues of the former IPAF magazine, Access Now, dated Autumn 1985, Spring 1990 and Autumn 1990 which confirm and reinforce the points I have been making in my various e-mails to you (in your absence) and others.

As you will see, an article written in 1985 by Bernard G James, HM Senior Engineering Inspector of Factories at that time with responsibility for health and safety in the access industry. refers to an accident in 1976, where a number of persons were injured when a MEWP, being used for joy-riding at a school fete, overturned. Following that accident, the HSE issued a news release clearly warning organisers of carnivals, fetes and similar events that these machines should not be used for that purpose in future.

When this occurred, I was Managing Director of EPL International, who, at that time, were the largest MEWP rental company in Europe and with immediate effect, following that accident to one of our machines, ceased the practice of lending machines to good causes, charities and school fetes, where money was raised for charitable purposes and I made it my business thereafter to make sure, through my role as Managing Director of IPAF, that this HSE advice was respected by all companies operating such machines in their hire fleets.

Despite this, there were further accidents, albeit very few, where machine owners had ignored the advice and the HSE issued another firm warning in July 1979, which we re-printed in the IPAF Access Now magazine in Spring 1990 (copy attached) and as if to reinforce the message to platform owners, there was a serious accident in July 1990 involving a fire fighting hydraulic platform being used on a Fire Station Open Day which overturned injuring several members of the public and a Fire Officer.

Since then, your organisation has, itself, reissued warnings to our industry not to use platforms for joy riding and I am well aware that all respectable members of our industry have now taken these warnings to heart and do not permit their machines to be used for purposes other than those for which they were originally designed and built.

Similarly, accidents have happened over the years where cranes have either had baskets attached to the jib or carried personnel baskets suspended on the hook and it was not too many years ago when the HSE, having been advised by IPAF of plans to permit joy-riding on a crane at the SED exhibition at Milton Keynes, actually over-ruled the Local Authority and insisted that they ban this function on the grounds that it conflicted entirely with HSE Guidance.

I hope, when you have had a chance to read the enclosures, that you will understand my considerable concerns over the use of a "flying garden" at The Chelsea Flower Show being suspended from a crane, with the intention of taking "VIP passengers" up to 86ft in the air in this contrivance. This activity flew in the face of all warnings and advice given by the HSE for over 30 years and in no way did it meet the regulations required for lifting people, either in a MEWP or a platform suspended beneath a crane. It was as flagrant a piece of joy-riding as I have seen in my many years within this industry and I cannot think of any reason whatsoever why it should have been considered essential, other than the fact that it was high profile and it might have been embarrassing to the HSE were they to be blamed for stopping this Irishman's fun.

This prompts one to wonder just what it is the HSE stands for today – is the organisation there to ensure health and safety at height or is the organisation embarrassed by the recent bad publicity it has received for allegedly stopping other peoples fun in totally unconnected areas?

I was stunned to receive Tim Galloway's e-mail of the 27<sup>th</sup> May, in which he states "Our discussions with the Borough suggested that sensible precautions have been taken in the unusual circumstances presented by the Flying Gardens. Consequently, we do not propose any further action".

This answer leaves me dumbfounded and flies in the face of all the advice given by your organisation to so many companies over so many years. How is it that suddenly, in the blink of an eye, the rules can be changed for the Chelsea Flower Show? This has opened the door for unscrupulous people, with total disregard for safety, to come up with all manner of stunts involving lifting people and in the unlikely event that they are challenged by the HSE or the Local Authority concerned with health and safety matters, they will only have to claim that "sensible precautions have been taken" and the circumstances are "unusual".

I am sure you can see the folly in all this and I do sincerely hope that the HSE will make public their detailed recommendations if, indeed, the rules have now changed, as to what constitutes "sensible precautions" and what constitutes "unusual circumstances".

In my opinion, it would be better if your organisation admitted that they got it wrong here and the old rules apply and clarify and publish the old rules as widely as possible, so everybody, including the Local Authorities, are aware of the HSE's position on this totally unnecessary practice.

It would also be a very good idea if the HSE made it its business to ensure that those members of local authorities charged with health and safety at events within their jurisdiction, are better trained, as when I spoke to the person charged with the Chelsea Flower Show situation last week, he admitted to me that he knew nothing about the regulations relating to the use of platforms and cranes for joy riding. In view of the HSE's response on that occasion, I don't suppose he has learnt anything of significance since!

I am sorry if you find my concern over this incident excessive but I do think there is a very important principle at stake here and it would be something of a disaster if, having educated our now quite substantial industry into respecting the HSE stand over the misuse of platforms, if all that were now thrown away over one, silly and avoidable mistake.

I shall look forward to hearing from you when you have had an opportunity to study this matter in more detail.

Yours sincerely,

**Paul Adorian**

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**From:** Tim.Galk  
**Sent:** 27 May 2011 11:50  
**To:** paul  
**Cc:** Chai  
**Subject:** Flying Garden at Chelsea Flower Show

Dear Mr Adorian,

Thank you for your emails to Ms Hackitt's office, which were passed to my team for action. Before I go on leave today, I thought I would update you on HSE's response.

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Yours sincerely,

Tim Galloway  
Head of Operations, London

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## Paul Adorian

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**From:** Michelle.  
**Sent:** 27 May 2011 17:12  
**To:** paul@redbird.co.uk  
**Cc:** Chair@...  
**Subject:** RE: [SPAM] FW: Flying Garden at Chelsea Flower Show

Dear Paul,

Thank you.

I note your points, and await your email to Judith on her return.

Best wishes and very good weekend to you.

Michelle

**Michelle Bayliss | HSE Chair's Office | Health and Safety Executive**

 Tel 0207 227 0000 | [chair@hse.gov.uk](mailto:chair@hse.gov.uk) | [www.hse.gov.uk](http://www.hse.gov.uk)

 Health and Safety Executive, Desk 3, 6th Floor, Sanctuary Buildings, 20 Great Smith Street, London, SW1P 3BT

It would be helpful if you could send your reply to the Chair's generic e-mail account at [chair@hse.gov.uk](mailto:chair@hse.gov.uk) which all colleagues in the office have access to, and you can be sure someone will always get back to you even if your usual contact is out of the office.

 Please consider the environment before printing this e-mail

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**From:** Paul Adorian [mailto:p...]  
**Sent:** 27 May 2011 16:06  
**To:** CHAIR  
**Subject:** RE: [SPAM] FW: Flying Garden at Chelsea Flower Show

Dear Michelle

Thankyou for your email.

Yes, I have received a most unsatisfactory answer and will be contacting Judith when she returns from Australia to request the HSE to review this case and in the light of that review to come up with new guidance for "Joyriding in Mewps and Cranes", as in the light of this decision by Kensington and Chelsea Borough Council, approved by HSE, our industry will be confused, to say the least.

After nearly forty five years in this industry, working closely with HSE, I always went out of my way to ensure that our industry took HSE guidance seriously and observed safety regulations. Now I am left wondering why I bothered.

Best wishes

Paul Adorian

**From:** Michelle.  
**Sent:** 27 May 2011 15:04  
**To:** paul@e  
**Cc:** Chair@  
**Subject:** RE: [SPAM] FW: Flying Garden at Chelsea Flower Show

Dear Mr Adorian,

I write regarding your email to Judith Hackitt, HSE Chair, regarding the 'Flying Garden at Chelsea Flower Show'.

Please accept my apologies for not acknowledging your email earlier.

As this is an operational matter I passed your email on to the lead officials for this area, and I understand that they have responded.

Kind regards,

Michelle

**Michelle Bayliss | HSE Chair's Office | Health and Safety Executive**

 Tel 0207 227 4

 Health and Safety Executive, Desk 3, 6th Floor, Sanctuary Buildings, 20 Great Smith Street, London, SW1P 3BT

It would be helpful if you could send your reply to the Chair's generic e-mail account at [chair@hse.gsi.gov.uk](mailto:chair@hse.gsi.gov.uk) which all colleagues in the office have access to, and you can be sure someone will always get back to you even if your usual contact is out of the office.

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**From:** Paul Adoria  
**Sent:** 27 May 2011 10:16  
**To:** Joy Area  
**Cc:** CHAIR  
**Subject:** RE: [SPAM] FW: Flying Garden at Chelsea Flower Show

Joy

Thank you for your email of last evening.

I have neither received an acknowledgement nor any response from anyone at HSE and am absolutely disgusted at the complete lack of interest from anyone in your organisation in this serious breach of well published and long standing instructions on the use of platforms and cranes for Joyriding, within or outside the construction industry. I was not aware until I received your email that breaches of safety regulations outside of the construction industry were regarded by those within the HSE as so unimportant.

Your Chairlady is , I am informed, in Australia, so presumably it's a case of "While the cat's away....."

In the absence of any interest from your organisation in my concern, I shall be taking this matter up with the Minister concerned with Health and Safety, as I feel that Government should be made aware of a massive gap in the enforcement of Health and Safety in situations where HSE washes it's hands of responsibility, leaving local authorities, with little or no knowledge of the applicable safety regulations, to carry the can and in their ignorance, allow dangerous and illegal practices to continue to place lives in danger, in this particular case for the purpose solely of publicity.

Regards

Paul Adorian

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**From:** Joy.Area  
**Sent:** 26 May 2011 16:19  
**To:**  
**Cc:**  
**Subject:** [SPAM] FW: Flying Garden at Chelsea Flower Show

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**From:** 'paul@e  
**Sent:** 26 May 2011 16:12  
**To:** CHAIR  
**Subject:** FW: Flying Garden at Chelsea Flower Show

Paul

*I have been passed your telephone message. I lead on construction : his way is not a construction activity. I understand that local colleagues have been in touch with you about your concerns. I cannot become involved in this.*

HM Principal Inspector, Construction Division, Sector (National) Safety Team  
HSE  
Haswell House  
St Nicholas Street  
Worcester WR1 1UW  
**Working pattern Mon - Thurs**

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**From:** .....  
**Sent:** 25 May 2011 18:31  
**To:** 'paul@  
**Subject:** Re: Flying Garden at Chelsea Flower Show

Hello Paul

This needs to be picked up by local office. I see that it's been referred by chair's office to London

Joy Jones

0191 .....

if I am available phone will divert to this number

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**From:** Paul Adorian  
**To:** Joy .....

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**Sent:** Wed May 25 16:22:30 2011  
**Subject:** FW: Flying Garden at Chelsea Flower Show



I have heard nothing further from the Borough and I note that the crane is still being used and taking passengers up to 80ft in the air.

If you allow this to continue, it is sending out a terrible message to all those people who use powered access equipment, or cranes fitted with personnel baskets, as it is clearly flouting all the regulations and Directives to which the industry is committed. This function is not necessary under any circumstances – it is a clear case of “joy-riding” for the purpose of publicity and I appeal to you to take urgent action to have this nonsense stopped, as I feel, if this is allowed to continue for the rest of the Show, you are allowing this Irish gardener to drive the equivalent of a coach and horses through the Regulations, which have taken nearly thirty years to reach their present effective state and it sets an example, to anyone so inclined, that the legislation means nothing where high profile activities of entertainment are concerned in our capital city and this is surely an appalling message to be transmitted at a time when safety at height has such a high profile throughout our industry.

In conclusion, I have alerted the national media of this situation, as I feel I must use every avenue to try and bring this absurd performance to a speedy end and I do so much hope that you will take the steps that are necessary without delay.

Yours sincerely,

Paul A Adorian

P.S. In view of the urgency of this matter, in case you are not in your office, I have copied this e-mail to Phil Papard and Joy Jones who, of course, are specialists in this field. PAA.

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MEWPs to be prepared. In these intervening years there has at least been available in the U.K. some safety guidelines for the various types of MEWP, apart from the B.S. code of practice for mobile scissor-operated MEWPs (BSS 6289).

The role played by bodies such as I.P.A.F. in the drafting of British and International Standards is extremely important, particularly in representation on technical sub-committees, working-groups, etc. It is noteworthy that since the CEN/TC 98 committee for MEWPs began its drafting exercise in 1981, two representatives from the U.K. access industry have been respectively Chairman of the main committee (Mr. H. J. Senn) and Convenor of the working group dealing with design and stability criteria for MEWPs (Mr. D. H. Ashworth). The author can personally testify to the prowess of both persons, best demonstrated by their technical expertise, determination and seemingly inexhaustible forbearance and patience.

Free interchange of information between member companies and I.P.A.F. is recommended, not least on matters concerning safety. For example, if a design or manufacturing fault is discovered in a particular type of MEWP then, unless it can be guaranteed that all owners of the MEWPs can be properly advised, I would expect I.P.A.F. to be informed also. In this way more effective remedial actions may be effected, and it may also be prudent for I.P.A.F. or the particular supplier/manufacture to advise HSE and/or the two main groups of engineering insurance companies whose surveyors carry out periodic thorough examinations of MEWPs.

Following a recent accident involving a MEWP, HSE circulated details of the accident and advice on modifications, testing and maintenance to inspectors. The manufacturer had already circulated remedial advice to known purchasers of the particular machines and he had co-operated fully during the HSE investigation. The particular circumstances and advice could constructively be communicated to I.P.A.F.

Trade associations such as I.P.A.F. can also do much to prevent the type of accident which recently resulted in two fatalities when a crane was being used for joy-riding at a fete. It may be recalled that in 1976, 6 persons were injured when a MEWP was being used for joy-riding at a school fete, following which an HSE news release was issued warning against such activities. The news release contained the

following advice:-

"Organisers of carnivals, fetes and similar events, together with suppliers and operators of MEWPs are warned that such vehicles are not suitable for 'joy-riding' purposes. However, it should be stated that these vehicles are safe for the purpose for which they were designed when used properly in industry and elsewhere. They are of sophisticated design and construction, and require high standards of installation and operation. It is not to be expected that carnival and fete organisers will have the resources to cope with these requirements.

The requirements include such matters as proper examination of the ground to ensure that it can withstand the weight of the (usually) four stabilisers/outriggers, each of which can impose loads of several tons; measures to ensure the stability of the machine along with careful siting, since an articulated arm when fully extended can be up to 200 ft. in length; and careful assessment of the total weight on the platform so that the safe working load is not exceeded.

Hirers (rental companies) of MEWPs can play an important part influencing customers against using MEWPs and other types of machines for the wrong purpose, and it is prudent for hirers to remember their legal responsibilities under the Health and Safety at Work etc. Act, 1974, particularly if operators (drivers) are included in the hire of a MEWP."

It is not possible to give details of the recent tragic accident involving a mobile crane, but it may be possible for more information to be promulgated after investigation of the accident by HSE is complete.

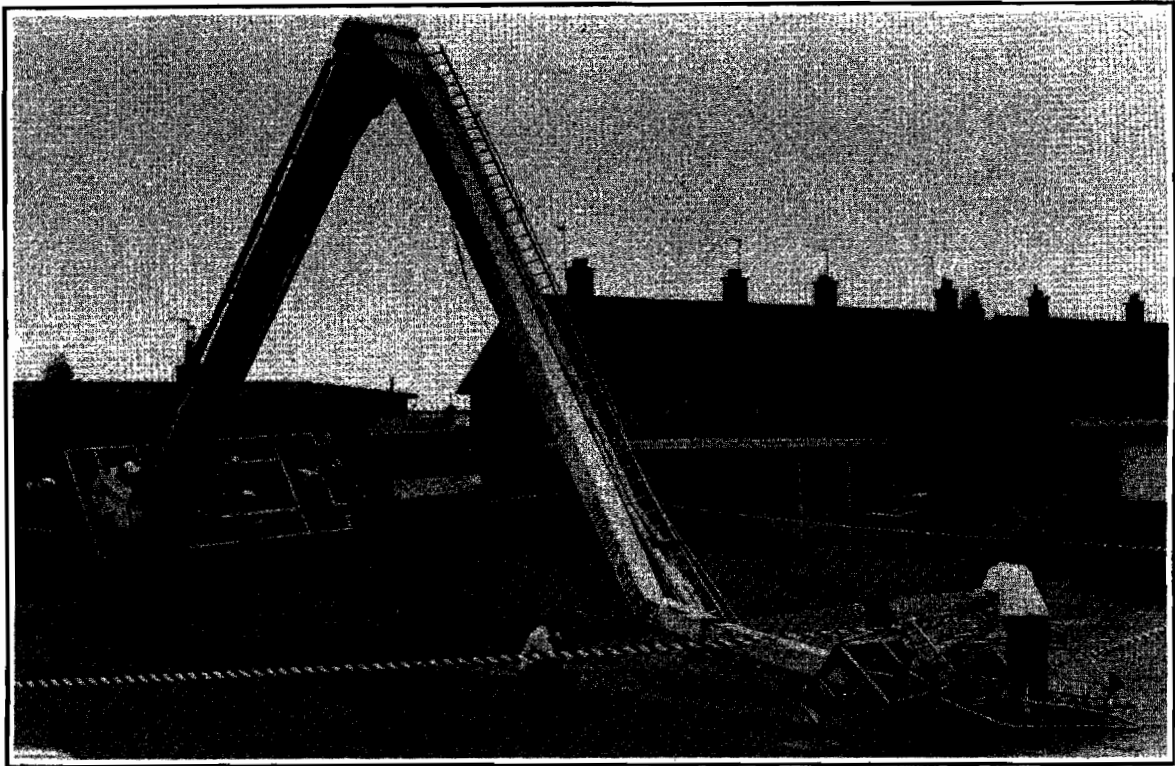
In conclusion, I should like to thank Paul Adorian for remembering that I agreed - at the I.P.A.F. Annual General Meeting in February this year - to submit an article for Access Now!, and for reminding me so doggedly of my commitment ever since.

I wish I.P.A.F. and Access Now! every success in the future.

Bernard G. James, C.Eng.MI Mech.E.,  
H.M. Senior Engineering Inspector of Factories

\*Policy booklet called "Safety at Power Operated Mast Work Platforms" Ref. HS(G)23. Available from H.M.S.O.

**This accident need not and should not have happened.**



## **New Safety Advice on Hydraulic Platforms**

Many Members and Readers will have seen the picture we print above following an unfortunate accident at a Birmingham Fire Station in July when a firefighting hydraulic platform being used at a Fire Station Open Day over-turned injuring several members of the public and a fire officer.

As we go to press the cause of the accident has not yet been fully ascertained but we print this picture not to cause any embarrassment to the manufacturer involved or the Fire Brigade concerned, but as a warning to all our Members and Readers of the potential risk in using platforms of any sort for "joy riding", even as in this case when the intentions are totally honourable and charitable.

As recently as the Spring issue, No. 19 of Access Now! we reprinted a warning from

the British Health & Safety Executive which was originally circulated throughout the UK industry in 1979 and our records do show that a copy of this magazine was actually posted to the Brigade Engineer of West Midlands Fire Brigade. What more can one do to discourage this irresponsible use of specialised equipment and when will people read, inwardly digest and act upon serious advice?

We know it is sometimes very difficult to refuse requests for charitable assistance, particularly as our platforms can be spectacular, appealing and great crowd drawers. We would earnestly appeal to Members and Readers once again to totally avoid the use of any form of mobile elevating work platform for "joy riding" because sadly the unexpected can and all too often does happen.

In a document dated 27th July, 1990, Peter Ward, West Midlands Area Director of the Health & Safety Executive described the present findings of HSE's investigation into an incident at a Birmingham fire station on July 15 when a Simon Snorkel hydraulic platform overturned.

The HSE have been conducting an investigation under the Health and Safety at Work Act 1974 into the incident at Garretts Green Fire Station, Sheldon. The Act governs safety requirements for employees and the public.

HSE's investigation has centred on the way in which the hydraulic platform was set up, the load being carried and possible faults in the hydraulic jacking system for the vehicle.

Mr. Ward said, "The present evidence is that the platform may have been loaded slightly beyond its safe working load, although

## Paul Adorian

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**From:** Paul Adorian  
**Sent:** 07 June 2011 15:17  
**To:** Tim Galloway (Tim.Galloway@hse.gov.uk)  
**Subject:** Flying Garden at The Chelsea Flower Show

Dear Mr Galloway,

In replying to your latest e-mail, I would apologise for the delay in responding caused, primarily, by my shock and surprise at the content of that e-mail. I have to say that I am really surprised that you should make a statement of this nature, dismissing this serious misuse of a mobile crane as though it were a complete non-event in terms of health and safety. Indeed, your wording is so casual that I am left with the feeling that no-one from your organisation has even bothered to check the precise circumstances surrounding the use of this equipment at The Chelsea Flower Show. You say you believe that the use of cranes in this way are "isolated occurrences which can be safely managed using bespoke sensible precautions based on effective risk assessment" and I quote "which is what we believe to have been done in this instance". Either you know that it was done and will be aware of the details or you don't and in view of my prior correspondence on this subject and the serious infringement that has taken place in respect of HSE Guidance Notes and advice, I am appalled that you could dismiss this matter after what appears to have been even less than a cursory glance at my complaint.

In my original e-mail to Judith Hackitt I believe I made it quite clear that the person assigned to deal with the health and safety aspects of the Flying Garden had admitted to me on the telephone that he knew nothing about the regulations for this type of use and I suggested to him that he contacted your organisation for advice.

I am used to dealing with the construction side of your organisation, who understand cranes and platforms and the affect of their misuse on projects of this nature and I am seriously concerned that, where the HSE delegates responsible for health and safety on occasions like this to the Local Council are involved, you clearly have not accompanied that delegation with any time to satisfy yourselves on the capability of Councils to be aware of Regulations, Guidance Notes and advice from the construction side of the HSE, which would clearly, had it been applied, have prevented this act of misuse.

There is clearly a very serious gap in our national health and safety supervision and I am really surprised that, having taken the matter up with your Chair, who was absent from her office at the time, that someone with a sense of responsibility has not picked this matter up and dealt with it rather more effectively.

I have written further, at some length, to your Chair and have not yet had any form of acknowledgement from her office and I feel I must now take this matter up at Government level to ensure that pressure is put upon your organisation to deal with matters of this nature with a far greater degree of urgency.

I am also going to recommend that there should be an urgent review of the qualifications of persons employed by Local Authorities charged with taking decisions on the misuse of construction equipment for purposes similar to the Flying Garden at Chelsea.

Controlled health and safety within the construction industry is under the supervision of people within the HSE who know what they are doing yet where the supervision is the responsibility of local authorities, anyone can apparently put a "hair-brained" scheme, such as this, into operation at events attended by the public without the HSE being remotely concerned over the potential for serious consequences, despite the fact that the situation has, on a number of occasions, been addressed very fully and effectively by that part of your organisation which deals exclusively with the construction industry. In my view, this is quite wrong.

If ever there was a case of “Nero fiddling while Rome burns”, this surely was it! What’s more, it took place in the heart of London, under your very noses.

Yours sincerely,

Paul A Adorian

From the Chair

**Judith Hackitt CBE**

HSE, Westminster Office  
6th Floor  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT

Mr Paul A Adorian  
Sent by email

9 June 2011

Tel: 020 7227 3820  
Fax: 020 7227 3802  
chair@hse.gsi.gov.uk

*Dear Mr. Adorian,*

I am writing in response to your email to me dated 31 May 2011, which follows on from substantive earlier correspondence addressed to me and to numerous other HSE officials. All of your correspondence relates to concerns about the use of a crane to transport guests and visitors as part of a 'Flying Garden' display at Chelsea Flower Show.

I have now had the opportunity to review all of the correspondence, which has taken place in full, and I would like to make the following observations:

- I am satisfied that HSE officials responded in an entirely appropriate and timely manner to the concerns you raised.
- The concern was dealt with as an official complaint and followed up accordingly – this included making contact with the relevant local authority regulator directly and conducting a review of the precautions, which had been put in place at the installation itself.
- You were then informed within 2 days of your original email to me that we had investigated the complaint and concluded that sensible precautions were in place and no further action was required.

I anticipate that this response is not what you were expecting to hear, but I cannot agree that this represents a change of policy or anything else within HSE. HSE's guidance recognises that lifting machinery such as cranes can be used for lifting people if the necessary precautions are taken. In the case

of the "Flying Garden" the local authority inspector was able to satisfy himself that appropriate precautions had been taken. As was stated in Tim Galloway's response to you, HSE were also satisfied that appropriate and sensible precautions had been taken.

In your correspondence, you repeatedly refer to "rules" being changed and/ or broken. The whole basis of our approach to health and safety management in Great Britain is one of sensible and proportionate management of risks, not on a set of rigid rules which must be applied irrespective of circumstances. Whilst you may not agree with our judgment on this occasion, I do not believe there is any inconsistency with the assessment made here and the earlier more general guidance against widespread use of MEWPs for all forms of joyriding which you quote in your correspondence. There will always be unusual and exceptional occasions which will require appropriate risk management measures to be taken so that spectacular events and displays can take place with due consideration being given to safety.

Yours sincerely  
Judith Hackitt

**Judith Hackitt CBE**  
**Chair, Health and Safety Executive**

## Paul Adorian

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**From:** Paul Adorian <[paul.adorian@hse.gov.uk](mailto:paul.adorian@hse.gov.uk)>  
**Sent:** 17 June 2011 11:40  
**To:** [chair@hse.gov.uk](mailto:chair@hse.gov.uk)  
**Cc:** Michelle.  
**Subject:** Flying Garden at The Chelsea Flower Show  
**Attachments:** Cranes and Access Article May-June 2011.pdf; Cranes and Access Article May-June 2011 FEM advice.pdf

Dear Judith Hackitt,

Thank you for your letter of the 9<sup>th</sup> June responding to my concern [paul.adorian@hse.gov.uk](mailto:paul.adorian@hse.gov.uk) I at the Chelsea Flower Show.

I would like to make it absolutely clear that the intention of my voluminous correspondence was not intended, in any way, as criticism of the HSE – an organisation for which I have always had great respect, having worked very closely with your predecessors John Rimmington and Bill Callaghan. I am well aware of the problems faced by the HSE, probably intensified by the current need to further reduce costs in Government Departments, which has clearly not helped your organisation which I know has been short staffed for some considerable time. Added to that, I am also well aware that responsibility for health and safety at events such as the Chelsea Flower Show does lie with the local authority in whose territory the activity is taking place and that this does create problems for the HSE.

I have been through all this in the past, one particular occasion coming to mind having occurred within the Milton Keynes local authority territory when an exhibitor at the now defunct Site Equipment Demonstration Show (SED) – probably the oldest and longest running Show for the construction industry – decided to put a large crane on his stand with a personnel basket suspended from the hook, with the intention of giving rides to visitors throughout the show. At that time, as Managing Director of the International Powered Access Federation, which had an exhibition stand almost immediately opposite, promoting safety in the industry, I felt this was an appalling disregard of the then widely circulated and current HSE guidance on lifting persons suspended beneath a crane and took the matter up with the local authority, which had decided, on the basis of “fairground regulations”, that it would be in order for the plan to proceed.

I then took the matter up with your organisation, who quickly saw the folly of the plan and realised it was a very bad message to be sending out at a construction industry show and immediately put pressure on the appropriate personnel at Milton Keynes who, quite properly prohibited the use of the crane for this purpose.

I see absolutely no difference between that incident and the Flying Garden at The Chelsea Flower Show, other than the latter was a much higher profile and occurred at a time when your organisation was being heavily criticised by a certain national newspaper for over zealous enforcement of health and safety matters.

Had I wished to embarrass your organisation, I could so easily have taken this matter up with that newspaper, which I am sure would have had an absolute “field-day” publishing previous guidance notes from the HSE and pointing out the areas in which the flying garden arrangements didn’t comply with the HSE’s guidance on lifting people in mobile cranes. I did not take that action as I was not seeking to embarrass your organisation and I am disappointed, having read your letter very carefully, that you have stated your satisfaction that HSE officials responded in an entirely appropriate and timely manner. I cannot agree with that statement, particularly as having spoken to the individual employee at The Royal Borough of Kensington and Chelsea Council and being told, by him, that he had absolutely no idea of the regulations covering the lifting of people on a platform suspended beneath a crane and also having seen pictures of the manner in which it was suspended which, quite clearly, does not comply with the requirements for two lifting ropes, as just one example of omissions in meeting HSE guidance.

Furthermore, bearing in mind that the FEM had just published it's advice on lifting people with cranes and the evidence I sent to your office relating to the HSE's oft-published requirements relating to the misuse of cranes and aerial work platforms, I am at a loss to understand how you can express satisfaction with the situation that transpired. If that isn't a change of policy, I don't know what is!

May I make it quite clear that I am not a kill-joy and I am not against the lifting of persons in cranes provided that the proper and as you say "necessary precautions" are taken. I do not accept that, in the case of the flying garden, those precautions were taken. You said "the local authority inspector was able to satisfy himself that APPROPRIATE precautions had been taken". He may well have thought that was a fact but as we all know, he knew nothing about the "necessary precautions" and hadn't a clue what necessary or appropriate precautions might be on his own admission. I get the impression, reading your letter, that no-one from the HSE actually went on the site and inspected the set up for themselves and established that it did meet the HSE's own recommended precautions. If I am wrong there, I will apologise but would welcome concrete evidence that the said visit was paid by an HSE Inspector with the appropriate knowledge of these particular problems.

Wishing to be constructive for the future and to try to avoid any further bad press for the HSE, I believe there is a serious omission in the implementation of health and safety where the use of cranes or platforms involves the lifting of persons for quite unnecessary events, such as The Chelsea Flower Show. So long as such events come under the control, in terms of health and safety, of local authorities, we have an on-going problem as very few local authorities will have health and safety personnel sufficiently knowledgeable in these specialist areas to enable them to deal correctly with problems of this nature. This expertise is readily available within your construction division, where you have probably the best health and safety inspectors in the world and having worked with these people for over 40 years, I have great respect for their expertise and integrity and I think it is a great pity that your people in London didn't turn to them for advice on this particular occasion.

The time has come for this anomaly between HSE and local authorities to be addressed. Currently it allows potentially dangerous activities to take place, where the HSE, by nature of their responsibilities, can "wash their hands" of a potentially serious incident but if that incident becomes an accident, the HSE will be on the scene in no time. This is clearly wrong and leaves a large gap in the implementation of health and safety throughout the UK and however boring it may be to third parties, I intend to bring Government's attention to this matter at the earliest possible opportunity, which I would like to think might be in the best interests of HSE. If your organisation were given total responsibility for health and safety, with no barriers, it would have to result in your being better funded so as to be able to take on that additional responsibility and who knows what that might do to accident figures.

I am enclosing a couple of cuttings from one of the most successful international magazines covering the cranes and access industry, which I feel illustrates the concern of Managers within our industry who have seen the Chelsea Garden flying, apparently with the blessing of the HSE, who for over 30 years have been telling our industry that joy-riding in cranes and platforms should not take place under any circumstances.

I should be signing this letter "Confused, Tunbridge Wells" but I am more than happy to put my name on the bottom of this letter in the hope that we can take this matter forward sensibly and reassure the industry that the HSE is serious about safety both within and outside our industry.

Yours sincerely,

Paul A Adorian

## Paul Adorian

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**From:** Paul Adorian <paul@...>  
**Sent:** 08 July 2011 10:51  
**To:** (chair@...)  
**Cc:** Michelle  
**Subject:** Flying Garden at The Chelsea Flower Show

**Importance:** High

Dear Judith Hackitt,

I am a little disappointed to have received no response from you to my e-mail of the 17<sup>th</sup> June, 2011 responding to your letter of the 9<sup>th</sup> June last.

Nevertheless, I do appreciate the fact that you have responded with a clear statement of your organisation's change of heart on the use of mobile cranes for joy-riding and I know that my colleagues and indeed, all those involved in any way with the lifting industry, whether it be of objects or persons, will share my surprise and disappointment at what appears to be a complete 'about face' in HSE guidance to an industry that has always responded eagerly to HSE guidance on the misuse of cranes and platforms for joy-riding.

I fear that the surprise within the industry will be all the greater throughout Europe now in view of the decision recently taken by Europe's major crane manufacturers, widely publicised by FEM, completely condemning the use of mobile cranes for any form of "spectacular event" where the lifting of people is involved.

As I feel it is vitally important that our industry within Great Britain should be aware of this significant change of heart from the HSE, as a matter of courtesy I write to request your permission for me to circulate your letter of the 9<sup>th</sup> June, 2011 to all those concerned with health and safety in the British lifting industry, as I do feel that they have a right to have sight of this document, which so clearly states the HSE's current attitude towards the use of cranes and platforms in unusual and exceptional circumstances.

As you may not wish to continue this correspondence, I will assume, if I don't hear from you within the next seven days, that you are happy for your letter to be circulated.

With kind regards.

Paul A Adorian

From the Chair

**Judith Hackitt CBE**HSE, Westminster Office  
6th Floor  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT

Mr Paul A Adorian

*Sent by email*

13 July 2011

Tel: 020 7227 3820  
Fax: 020 7227 3802  
chair@hse.gsi.gov.uk*Dear Mr. Adorian,*

I am writing in response to your email dated 8 July 2011.

Our earlier correspondence which took place in June related to the specific concerns you raised about the use of a crane as part of a 'Flying Garden' display at the Chelsea Flower show

On that occasion, I addressed the specific points that you raised and also the official complaint you lodged. I concluded that in the particular case which you cited HSE was content that the local authority inspector had taken the necessary steps to satisfy himself that the appropriate and sensible precautions had been taken to allow the "Flying Garden" to go ahead.


Your most recent e-mail claims that HSE has undergone an 'about face' in relation to its general policy for the use of cranes and attachments. Your concerns now appear to extend beyond the specific instance and looks more broadly at the use of cranes for entertainment purposes.

Please allow me to make our position clear. From the advent of 'bungee jumping' in GB, HSE's position has been that cranes and attachments used for these sorts of entertainment activities are more akin to fairground rides than conventional work activities. In circumstances such as these it would be inappropriate to rigidly apply regulations which are designed for conventional work activities and for which there are alternative and reasonably practicable means available to work safely at height.

HSE does, however, clearly expect the operators of these amusement attractions to consider carefully the use of cranes for entertainment purposes and to ensure that all appropriate measures are taken to ensure employee and public safety. Given the temporary nature of these attractions and their purpose in providing thrills for the participants, considering alternate means does not apply as it would in a workplace situation.

In 2009 HSE initiated a review of existing guidance on bungee jumping. The information on crane use in this updated guidance will be relevant to other entertainment attractions which use cranes. In accordance with our long established procedures and our commitment to full and open consultations we will be seeking to engage with all relevant stakeholders including those in the crane industry during this process

Your latest email seeks my agreement to your circulating my earlier correspondence with you more widely. I have no objections to you doing this as long as those to whom it is made available have access to the full text of the letter and also to all of the information associated with this discussion, including the explanation of our more general position on the use of cranes for entertainment purposes as set out above, so that they can place this discussion in the fullest context.

Yours sincerely  
  
**Judith Hackitt CBE**  
**Chair, Health and Safety Executive**

## Paul Adorian

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**From:** Paul Adorian <|  
**Sent:** 18 July 2011 12:14  
**To:** 'Chair@  
**Cc:** Michelle  
**Subject:** RE: HSE Chair letter to Mr Paul A Adorian - 13 July 2011

Dear Judith Hackitt,

Thank you very much for your letter of the 13<sup>th</sup> July which has left me feeling rather concerned, as you appear to have overlooked or, dare I say, deliberately ignored some of the specific points I have been endeavouring to make throughout our correspondence.

Let me say straight away, that my original letter to you was not so much a complaint but more a request for the HSE to take some action to restrain what I and many others considered to be a potentially dangerous occurrence and as you so rightly say, the object of the correspondence was, of course, the Flying Garden at The Chelsea Flower Show.

Let me assure you that I had and have absolutely no wish or intention to embarrass or criticise the HSE but I am disappointed that you should suggest that the purpose of my original letter was specific to the Flying Garden. That was the trigger that caused the letter to be written but in our continuing correspondence I thought I had made it abundantly clear that my concern, quite apart from the potential danger of that occurrence, was the message it sent out, not only to our industry but to the world in general, that the HSE was perfectly comfortable to see cranes misused in this flagrantly and potentially dangerous manner for the sake, purely, of entertainment.

For many years the HSE has hidden behind the protocol which places responsibility on local authorities for "policing" this type of activity. However, whenever an accident follows such use, the HSE is very quick to jump in and take three to five years to investigate and make a decision whether to prosecute, leaving scores of individuals, business men and families, wondering when and if they may be prosecuted and making it very difficult for those immediately involved to make decisions as to future policies, as any such decisions are obviously going to be influenced by the outcome of any court case.

Although I know it is no fault of your organisation, I feel it quite ludicrous that people with little or no knowledge of complex lifting equipment are left to make decisions as to whether or not it should be used in this manner and as I have explained, in more than one letter to you, I have spoken to the man delegated to ensure that the use of the crane in lifting the Flying Garden complied with the appropriate requirements and he told me that he had absolutely no knowledge of what those requirements were. Also, when I expressed my doubts as to whether the HSE had visited the site and inspected the arrangements, you have made no specific comment to reassure me that an HSE Inspector, with the appropriate knowledge, did visit the site and approve the use of the equipment and I feel this is a serious omission.

I have made it abundantly clear in my letters that this situation has existed for at least 35 years and I find it very hard to believe you feel that my concerns were purely for the activity at Chelsea – I am concerned at the message that your apparent approval by in-action has sent out and I am more than delighted to know that you are now, at least, reviewing the use of cranes for bungee jumping,

although this falls very far short of the use of cranes that should be the subject of your review. That review should include the use of cranes for any purpose that is not related to the purpose for which they were designed and I also feel that the HSE's acceptance of the use of cranes for 'entertainment' activities being akin to fairground rides is almost equivalent to a double negative. It is high time the HSE took a positive and public stand to prohibit the use of cranes for these totally unacceptable activities, including bungee-jumping, rather than claiming it is not its responsibility as the local authority fulfils that role. That is simply a case of evading the issue and one has only to look at some of the dramatic accidents that have happened in the past to see the error of your organisation's ways in treating such use in that fashion – a classic example being that where the BBC killed an innocent person in an exploding box suspended from a mobile crane, where the bungee rope became detached from the person as the box exploded and he fell to the ground. Was it really so necessary for such an event to be allowed to meet the public's right to be entertained and was it approved by the HSE or the local authority?

I think we all understand that the Chelsea Flower Show incident was 100% political and in attempting to stop that exhibit, the HSE would, I know, have met with hostility from both Government Ministers responsible for health and safety and the Editor of the Daily Mail, who likes to poke fun at your organisation. I do not seek to poke fun or make your life difficult – what I am trying to do is to bring to an end a very unsatisfactory situation, where safety levels for both the public and workers on construction sites come under your jurisdiction, whereas presently the safety of the public attending entertainment shows and fairgrounds come under the jurisdiction of local authorities, few of whom have people on their staff with the knowledge, or experience, to know whether a particular application for a crane is safe or not so, in the present circumstances, accidents will continue to injure and kill people unnecessarily whilst those who could prevent this are more concerned about image and bad publicity than in the safety of the public.

It is time that the HSE came to grips with this problem and produced a complete and sensible guidance which covers the use of cranes for entertaining purposes in all spheres of action and I know that there are many within the lifting industry, both for people and objects, who will gladly assist in any review that may finally produce guidance that leaves no room for misinterpretation.

Better still, why not take a leaf out of your Construction Division's book and simply ban the use of cranes for entertainment purposes of any sort and let those who wish to bungee-jump do so off fixed structures. If they want to kill or injure themselves, that is their right but we should not assist them by providing mobile machinery to make that task easier.

In conclusion, I am grateful to you for agreeing that we may circulate the correspondence and you may rest assured that I only intend to circulate it where it needs to go and that doesn't include the Daily Mail and I will certainly ensure that complete documentation is supplied, with a personal request from me that if they intend to publish, they publish in full. Obviously, I cannot guarantee the actions of those responsible for circulating the information but I am sure that they, like me, have only the interests of safety in our industry in mind and certainly would not wish to do anything to damage the reputation of your organisation.

I hope we may be able to work together in the future to clear up this mess and eliminate the uncertainty which does exist today.

With kind regards

Paul A Adorian