Health and safety at work

A brief introduction to health and safety in the workplace. For more detailed information visit WorkSafe New Zealand’s website.

The Health and Safety at Work Act 2015 and related regulations apply to employees and contractors.

The Act and related regulations require that workers and others are given the highest level of protection from workplace health and safety risks, so far as is reasonably practicable. This includes risks to both physical and mental health.

The Act introduces a new term, “Person Conducting a Business or Undertaking” (PCBU), which captures employers, self-employed, principals to contracts, manufacturers, designers, etc. who have the primary health and safety duties. Workers also have duties under the Act. Workers include employees and contractors.

Health and safety duties

**Business or undertaking duties**

A PCBU is a ‘person conducting a business or undertaking’. The PCBU has the primary duty of care – the primary responsibility for people’s health and safety at work. In general this means it must ensure the health and safety of its workers; any other workers it influences or directs; and other people who could be put at risk by the work carried out, for example, customers, visitors or the general public.

Risks must be managed so far as is reasonably practicable. This involves balancing a risk with the resources (time and cost) needed to manage it.

The primary duty of care is a broad, overarching duty. It includes having effective practices in place for:

- Providing and maintaining:
  - a work environment that is without risk to health and safety
  - safe plant and structures
  - safe systems of work
  - adequate facilities for the welfare of workers at work
- Safe use, handling and storage of plant, substances and structures
- The provision of information, training, instruction or supervision that is necessary to protect people from risks to health and safety arising from the work carried out
- Monitoring the health of workers and the conditions at the workplace to prevent illness or injury to workers arising from the work carried out.


**Worker duties**

Workers must take reasonable care of their own health and safety and reasonable care that others are not harmed by something they do or don’t do. They must also follow any reasonable instructions given to them by the PCBU, and cooperate with any reasonable health and safety policy or procedure.


**Worker engagement and participation**

PCBUs must have worker engagement and participation practices, regardless of size, level of risk, or the type of work carried out. This means:
ensuring workers’ views on matters that could affect their health and safety are asked for and taken into account (engagement); and

having clear, effective and ongoing ways for workers to raise concerns or suggest improvements on a day-to-day basis (participation). This may include having elected health and safety representatives.


**Officer duties**

A person is an officer if they have a position that allows them to exercise significant influence over the management of a business. Typically, an officer is the director, chief executive, or a general partner in a limited partnership. The role of an officer is to exercise due diligence to ensure that the business meets its health and safety obligations under the Health and Safety at Work Act.


**Right to refuse work**

A worker has the right to stop work, or refuse to carry out work, if they believe that doing the work would expose them, or anyone else, to a serious risk to health or safety from an immediate or imminent hazard.

- If a worker has stopped work, they need to let the PCBU know as possible.
- Once a worker has tried to resolve the issue with the PCBU, they don’t have to start again if they still reasonably believe that they or another person would be in danger.

If a worker and PCBU have both made reasonable efforts but still haven’t been able to resolve the issue, you can ask WorkSafe New Zealand for help.


**Worker protections**

A PCBU may not discriminate or take negative steps against a worker because of their involvement in work health and safety. An employee can take a personal grievance against an employer if they do this, and a contractor can take civil proceedings in the District Court.

An employee can also take a personal grievance against an employer, and a contractor a civil proceeding, if the PCBU pressures them to either not perform a health and safety duty, or not exercise their rights in relation to health and safety.


**Reporting a notifiable event**

WorkSafe New Zealand must be notified by the PCBU when a notifiable event happens. This includes:

- the death of a person
- a notifiable injury or illness, or
- a notifiable incident.

WorkSafe New Zealand’s Notifiable Event Tool [https://www.worksafe.govt.nz/notifications/notifiable-event/] to help understand which events must be reported and how they must be reported.

**Anonymous complaints**

Contact WorkSafe New Zealand in confidence if you have a concern about a
Contact WorkSafe New Zealand [https://www.worksafe.govt.nz/about-us/contact-us] in confidence, if you have a concern about an unsafe or unhealthy work situation that could lead to a fatality or serious injury or illness.

Workplace health and safety programmes

Organisations must provide appropriate training and information for workers so that they can work safely. Many organisations provide additional training and benefits as part of a health and safety or wellness programme. One example of this is an employee assistance programme.

Employee Assistance Programmes

Many employers have employee assistance programmes (also known as EAP) to provide free and confidential counselling and support to employees. The counselling may be general or may be specific, for example, budgeting advice or CV writing skills. Organisations often offer EAP to their employees as part of their wider health and safety programme or as part of a managing diversity initiative.

EAP is not usually restricted to work issues, because issues in a person’s home life can have an impact on their relationships, health and productivity at work. Being able to refer staff to EAP (if it is needed by an employee) is useful for managers as part of managing an employee’s performance or misconduct, as other problems in their life can be a contributing factor to issues arising in the workplace. Many organisations offer EAP during workplace change, even if they do not have a continuing EAP programme, as this can be a particularly stressful time for employees. Sometimes employees can refer themselves directly, sometimes they need to go through a contact person in their organisation. Some organisations limit the number of sessions per issue, or sessions per person.

There are different options for organisations to provide EAP to staff including:

- contracting a single EAP provider and paying a set fee based on the number of employees in the organisation. The advantage of this is that the employer doesn’t know who is using the service so employees can feel that their use of the service is completely confidential.
- contracting a single EAP provider and paying per session. This can be done more confidentially if the employee can go through a designated contact person in the organisation, so the person’s name can be protected.
- contracting with specific providers as and when needed. The advantage of this is that specialist providers can be used, targeting the person and their specific situation. If a designated contact person is used within the organisation, this will assist with the protection of the person’s name. If they prefer not to disclose their issue, they can still be referred to a general provider.

Further resources

WorkSafe New Zealand [http://www.worksafe.govt.nz] provides the following useful resources on health and safety in the workplace:

- An [introduction](http://www.worksafe.govt.nz/worksafe/hswa/understanding-hswa) to the Health and Safety at Work Act 2015
- Further [guidance material](http://www.worksafe.govt.nz/hswa/hswa-guidance) on the Health and Safety at Work Act 2015
- Information on [how to manage work risks](http://www.worksafe.govt.nz/worksafe/hswa/health-safety/how-to-manage-work-risks]
- Information on [risk management in different industries](http://www.worksafe.govt.nz/worksafe/hswa/risks-by-industry]

Please note that this content will change over time and may be out of date.

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