

# WORKING TOGETHER ON HEALTH AND SAFETY



EVERYONE WHO GOES TO WORK  
COMES HOME HEALTHY AND SAFE

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## Note to presenter

- This presentation covers the main concepts of the Health and Safety at Work Act 2015 (HSWA), at a high level
- It was developed on 03 March 2016. It may be further updated in future, so please check the WorkSafe website for the most up to date version.

## NEW ZEALAND HAS A PROBLEM

### Every week, on average...

- > 1 person dies at work
- > 15 people die from work-related diseases

### Each week...

- > **16 loved ones don't go home**

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- Nobody goes to work expecting to get hurt, sick or killed. But in New Zealand, far too many people do.
- Every year 50-60 people are killed in a workplace incident and hundreds more die an early death as a result of work-related ill-health (600-900)
- Every week, 16 loved ones do not go home.
- This is not acceptable. Our health and safety record is nearly twice as bad as Australia's and three times worse than the UK's.
- The economic cost of workplace deaths, injuries and ill-health is estimated at \$3.5-billion a year – but the real toll is the devastating emotional cost on family, friends, loved ones and co-workers of those people hurt or killed at work.

### In case anyone asks

\* Work-related disease statistics are from a 2012 study called "Work Related Disease in New Zealand", by MBIE which estimates the number of work-related disease deaths and 600-900 per year.

\* Death and Injury statistics are from WorkSafe's SWIFT data, which uses ACC and other official stats

\* The comparison with the UK and Australia health and safety data is for work-related fatalities and not overall injury rates.

## WE NEED A NEW WAY OF THINKING



**GETTING YOU HOME HEALTHY AND SAFE,  
THAT'S WHAT WE'RE WORKING FOR**

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- Getting you home healthy and safe is what we're working for at WorkSafe
- If you believe some of the stories you hear, health and safety is all about stopping any activity that might possibly lead to harm. This is not WorkSafe's vision of sensible health and safety – it's about sensibly and proportionately managing risks – we want to save lives, not stop them.
- Enforcement is one of a range of tools used by WorkSafe to ensure that good health and safety practices are implemented in every New Zealand workplace.
- WorkSafe also engages, informs and educates so that there is a clear understanding of good health and safety practices, and how to best identify and manage risks.
- This is the beginning of necessary change in New Zealand's workplaces.
- The question is no longer "Do I have a responsibility for workplace health and safety?", but "What is my responsibility for workplace health and safety?"

## HEALTH AND SAFETY AT WORK ACT 2015

- > Changing the law is **only a start**
- > To make a real difference, we need to **change our attitudes** towards health and safety



**EVERYONE WHO GOES TO WORK  
SHOULD COME HOME HEALTHY AND SAFE**

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- The Health and Safety at Work Act (HSWA) is only the start of the change that needs to happen in New Zealand workplaces.
- To make a real difference we need to start with changing our attitudes and behaviours towards health and safety.
- Every business and worker must make health and safety at work a priority. This needs to be done collaboratively with the people in your business and with the other businesses you work with. Everyone has a role.
- A strong commitment to a safe and healthy workplace delivers:
  - better staff retention and engagement
  - higher productivity
  - greater client commitment, and
  - a significant return on investment.
- *Note: If your audience would like evidence of this, there is an excellent case study on the HSWA website about the company Waste Management. Their focus on health and safety has resulted in 0% staff turnover in 4 years.*

## WHAT ARE WE ALL WORKING TOWARDS?

- > A significant **reduction in serious injury, illness and death** from work
- > **Through ...**
  - Targeting risk
  - Working together
  - Working smarter
  - Working safer



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- To that end WorkSafe will join forces with businesses and workers alike to:
  - **Educate** people about their workplace health and safety responsibilities
  - **Engage** people in making changes that reduce the chances of harm
  - **Enforce** workplace health and safety legislation where appropriate
- Together our focus must be on:
  - **Targeting risk** – (which we will discuss further in this presentation)
  - **Working together**
  - **Working smarter**
  - **Working safer**

## HSWA IS A NEW WAY OF THINKING

- > Ensures **everyone has a role to play**
- > Makes everyone's **responsibilities clear**
- > Focuses on **managing risk**
- > Requires those who create the risk to **control the risk**
- > Requires you to **engage with your workers** and **enable them to participate on an ongoing basis**
- > **Allows flexibility** in managing your health and safety risks

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- HSWA is a new way of thinking.
- HSWA recognises that each business is best placed to know health and safety risks it creates, and what it should do to eliminate or minimise those risks. For example, a small country Bed and Breakfast will have different health and safety practices than a large hotel chain.
- It's about doing what is 'reasonably practicable' and proportional; balancing the level of risk, the chance of an incident happening, the severity of the impact on people, and how much influence and control a business has in preventing it.
- HSWA:
  - Ensures **everyone has a role to play**
  - Makes **everyone's responsibilities clear**
  - Focuses on **managing risk**
  - Requires **those who create the risk to control the risk**
  - Requires you to **engage with your workers** and **enable them to participate in health and safety in an on-going basis**
  - **Allows flexibility** in managing your health and safety risks

## SO WHERE DO YOU START?

Know your health and safety **Risks** ...



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- It's a **myth** that papercuts in the workplace are now a big deal. HSWA's focus is on proportionate risk management.
- Start by understanding your work health and safety hazards.
  - A hazard is **anything in the workplace that has the potential to harm people**.
  - Hazards can include objects in the workplace, such as machinery or dangerous chemicals.
  - Other hazards relate to the way work is done. For instance, hazards on a production line could include manual handling, excessive noise or fatigue caused by the pace of work.
  - **A risk arises when it's possible that a hazard will actually cause harm**. The level of risk will depend on factors like how often the job is done, the number of workers involved and how serious any injuries that result could be.
- What may be a high risk hazard for one business, might not be for another. It depends on the type of work you do and the degree of risk related to the hazard.
- Proportionate risk management means:
  - identifying the health and safety hazards in your business that could **seriously harm workers and others**, and then
  - considering and putting in place the behaviours, practices, systems, processes and training needed to eliminate, and where they can't be eliminated, minimising those risks.
  - The focus should be on managing your business's most significant risks before managing lower level risks. And this includes both Health as well as Safety risks

## YOU NEED TO KNOW...

- > **What the risks are** from your work
- > The **likelihood** of those risks occurring
- > The **degree of harm** that might result from those risks
- > Options to **eliminate** the risks
- > If they can't be eliminated, options to **minimise** the risks



## USE COMMON CONTROLS FOR COMMON RISKS

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### So where do you start?

- Know what the health and safety risks in your business are
- Take into account factors including:
  - the **likelihood** of the risk concerned occurring
  - the **degree of harm** that might result from the hazard or risk
  - **what you know** (or should know) about the hazard or risk, and
  - the availability and suitability of ways to **eliminate** the risk, and where they can't be, **controls to minimise the risks**
- This process of assessment helps business to balance both the consequences and likelihood of harm with the suitability, availability and cost of controls more readily.
- The assessment then enables businesses to prioritise and **focus on managing (so far as is reasonably practicable) the most significant risks before managing lower level risks.**
- For the purposes of managing risk, reasonably practicable is a balance between what is possible (the highest level of protection) and what is achievable (reasonable in the circumstances).
- Remember that there are common controls for common risks. WorkSafe has a number of factsheets available on our website to help you with these.



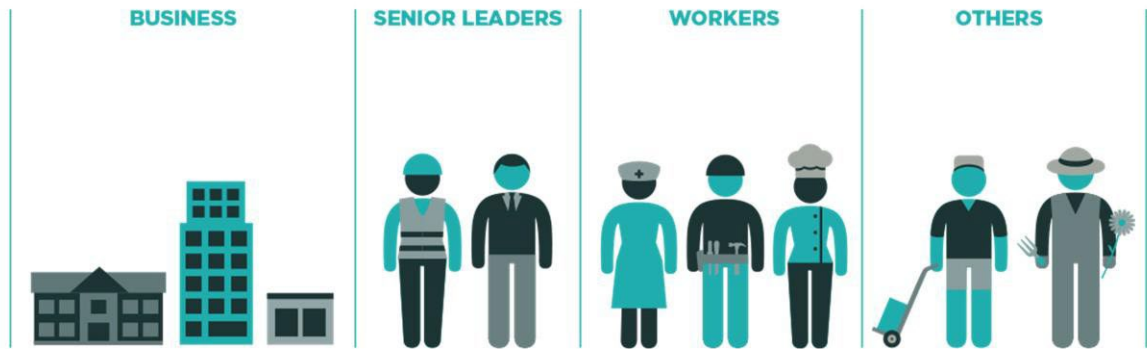
# HOW HSWA HELPS

## Five Key Concepts



- HSWA helps businesses with health and safety risk management by:
  - Making everyone’s responsibilities clearer
  - Recognising modern working relationships, including moving away from the traditional “Employer / Employee” relationship to defining work and workers in a much broader sense.
  - Recognising that businesses often work together, or are co-located together, therefore cooperation on health and safety is the most effective and pragmatic approach.
  - That worker engagement and participation in health and safety is one of the most effective and productive ways of identifying and finding solutions to managing risk

# EVERYONE HAS A ROLE TO PLAY



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- HSWA is very inclusive. It's about Businesses, Leaders, Workers and others in the industry working together to improve NZ's health and safety record.

# 1. BUSINESSES

## PCBUs



- > PCBU – **Person Conducting a Business or Undertaking** – is a broad concept that captures all types of modern working arrangements
- > A **business** – whether commercial or non-commercial – **is a PCBU**.
- > Note that **sole traders** and **self-employed** are PCBUs



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- PCBU stands for “Person Conducting a Business or Undertaking”, and is a broad concept used to encompass all types of modern working arrangements.
- A PCBU may be a person when referring to sole traders or self-employed. However it usually refers to a business entity such as a company, or an undertaking such as a not-for-profit organisation.
- The difference between a business and undertaking is:
  - **Businesses** – are usually conducted with a view to making a profit and have a degree of organisation, system and continuity
  - **Undertakings** – may have elements of organisation, systems, and possibly continuity, but are usually not profit-making or commercial in nature

### **Examples of a business or undertaking**

- A retailer
- A wholesale business
- A manufacturing business
- An importer that is on-selling the imported goods
- An owner-driver of their own transport or courier business
- A fast food franchisor and the operator of the fast food outlet (the franchisee)
- A self employed person operating their own business
- A builder (including principal contractors and sub-contractors)
- Partners in a partnerships
- Parties in an unincorporated joint venture

### **Examples of an undertaking**

- A government department or government agency
- A local council
- A school

- A charity like the SPCA or Barnardos

## THE BUSINESS HAS PRIMARY RESPONSIBILITY PCBUs and Primary Duty of Care



### A business must look after:

- > The health and safety of your **workers** and **any other workers** you **influence or direct**
- > The health and safety of **other people** at risk from any work you carry out
  - eg customers, visitors, public

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- A business or undertaking must ensure, so far as is reasonably practicable, the health and safety of its workers; any other workers who are influenced or directed by the business
- A business must also look after other people who could be at risk by the work being carried out, for example customers, visitors or the public
- In the context of HSWA, this is called the 'primary duty of care'.

## 2. SENIOR BUSINESS LEADERS

### Officers and the Duty of Due Diligence



- > An **Officer** is a person who holds a very senior leadership position, and has the **ability to significantly influence the management** of a Business or Undertaking.
- > Includes:
  - Directors of a company
  - Partners in a partnership
  - Board members
  - CEO

- An officer is a person who holds a very senior leadership position in the business, and has the ability to **significantly influence the management of the business**. A business can have more than one officer.
- Officers include:
  - Directors,
  - Partners in a partnership,
  - Board members, and Chief Executives.
- A person who merely **advises or makes recommendations** to these roles is not an officer.

## OFFICERS MUST ENSURE THE BUSINESS IS MEETING ITS H&S RESPONSIBILITIES



- > Officers must do **due diligence** to make sure the business understands and manages its key risks
- > They must:
  - keep **up-to-date knowledge** of health and safety
  - **understand the operations** of their business
  - **ensure** and **check** that their business has **appropriate resources** and **processes** for health and safety

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Officers have a duty of **due diligence** to ensure their business complies with HSWA. This includes taking reasonable steps to:

- Have **relevant, up-to-date knowledge** of workplace H&S
- Understand the **business's operations** and associated H&S risks generally
- Ensure the business has **appropriate resources and processes** to eliminate or minimise risk
- Ensure the business has **processes** for receiving, considering and responding to information about incidents, hazards and risks

The extent of an officer's due diligence duty will depend on the nature of the business' operations and the nature of the officer's responsibility and role

### WorkSafe's approach

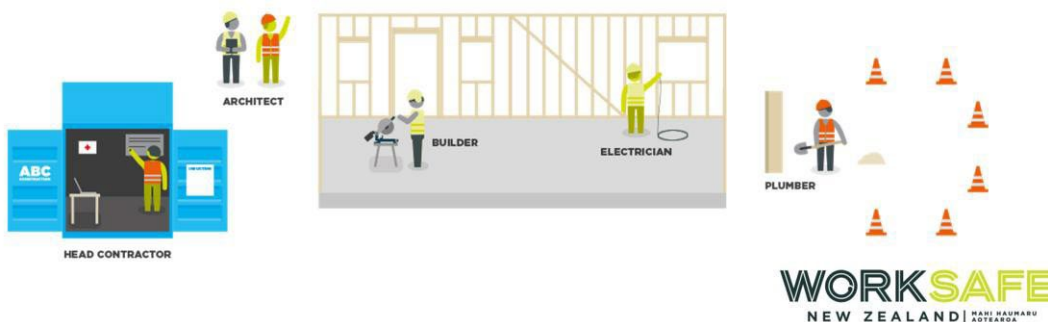
- WorkSafe considers H&S governance to be as important as any other aspect of governance. Senior leaders – including Boards, Directors and CEOs – need to lead from the top. This includes putting strategies in place that will foster a better H&S culture within their organisations
- We'll enforce with Officers when there's information that points to systemic failure in governance that impacts on the business or undertaking meeting its duties – for example, failures across multiple sites, or a series of incidents over a period of time.

### 3. WORKING WITH OTHER BUSINESSES

#### Overlapping Duties



- > When the work of two or more businesses overlap, they must **consult, co-operate** and **co-ordinate activities** to meet their health and safety responsibilities to workers and others.



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- When the work of two or more businesses overlap, for example on a work site or through a contracting chain, they must work together to fulfil their duties of care.
- Where their duties overlap, businesses need to consult, co-operate and co-ordinate activities to meet their health and safety responsibilities to workers and others.



## 3. WORKING WITH OTHER BUSINESSES

### Overlapping Duties



- > Plan ahead, think about the **stages** of your work and **who is affected** by it
- > Identify the risks to be managed and **together agree how to control the risks** and who is best placed to do so
- > Define **roles, responsibilities** and **actions** and explain these to workers and other businesses so they know what to expect
- > Continue to **consult, communicate, co-operate** and **co-ordinate** including carrying out reasonable and proportionate monitoring to ensure H&S is maintained

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- This means:
  - Planning ahead, thinking about stages of your work and who is affected by it
  - Identifying the risks to be managed and together agreeing how to control the risks and who is best placed to do so
  - Defining roles, responsibilities and actions and explaining these to workers and other businesses so they know what to expect
  - Continuing to communicate, cooperate and carry out reasonable and proportionate monitoring to ensure H&S is maintained.

#### WorkSafe's Approach

- WorkSafe **expects that** you should be able to explain the steps you have taken to consult, cooperate and coordinate with other PBCUs
- We may check whether arrangements, including monitoring, are working well and that they reflect your level of influence and control, and what is reasonably practicable in the circumstances
- We will look for arrangements which are sensible and proportionate
- Those at the top of the contracting chain should
  - Show leadership and encourage good practice through the supply chain
  - Use sound contractor management processes
  - Avoid pushing risk down the chain

## HEALTH AND SAFETY IN THE SUPPLY CHAIN

### Upstream Duties



- > Businesses who are 'upstream' (eg architects, manufacturers, importers) must ensure, so far as is reasonably practicable, that **the work they do or the things they provide to other workplaces** don't create health and safety risks.

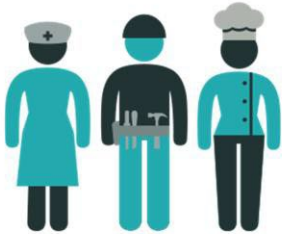


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- WorkSafe recognises that it is more efficient and effective to work with upstream PCBUs/Businesses to prevent risks emerging at the design, manufacturing, import or supply stage – rather than trying to tackle the same risk over and over again in multiple workplaces
- WorkSafe may engage with designers in NZ to promote the design of business processes that first eliminate or then minimise risk.
- Because much of the plant used in NZ is designed and manufactured elsewhere, WorkSafe considers that **importers, suppliers and installers** have an important part to play in ensuring safety and health at work – including responsibility for insuring **the equipment they import, supply or install is fit for purpose**
- If WorkSafe sees a design or manufacturing fault that has contributed to a health & safety risk at work, we may follow up with the upstream PCBU/Business.
- We are more likely to follow up where there is a pattern of failures

## 4. WORKERS AND OTHERS IN A WORKPLACE



> A worker is **an individual who carries out work in any capacity** for a business or undertaking.

- Employees
- Contractors/Sub-contractors
- Employees of labour hire companies
- Apprentices or trainees
- People doing work experience or work trial
- Volunteer workers

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A worker is **an individual who carries out work in any capacity** for a business or undertaking. This includes:

- Employees
- Contractors/Sub-contractors
- Employees of labour hire companies
- Apprentices or trainees
- People doing work experience or work trial
- Volunteer workers

## 4. WORKERS AND OTHERS IN A WORKPLACE



> **Others** in a workplace include:

- Casual volunteers
- Visitors to a workplace (eg courier drivers, clients, suppliers)
- Customers
- Any public who could come into contact with a business' work activity

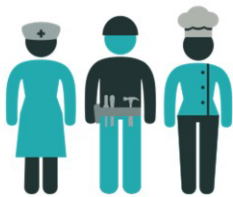
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Others in a workplace include:

- Casual volunteers
- Visitors to a workplace
- Customers
- Public who come into contact with a business' work activity

## WORKERS' AND OTHERS' RESPONSIBILITIES



- > **Workers** and **Others** in a workplace must:
  - **Take reasonable care** for their own health and safety and that of others
  - **Follow** any reasonable health and safety **instructions** given to them by the business



- > and **Workers** must:
  - **Co-operate** with any reasonable business policy or procedure relating to health and safety in the workplace

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Workers and Others in a workplace must:

- Take reasonable care for their own health and safety and that of others
- Follow any reasonable health and safety instructions given to them by the business

And workers must:

- Cooperate with any reasonable business policy or procedure relating the health and safety in the workplace

## 5. WORKER ENGAGEMENT & PARTICIPATION



### Businesses must:

- › Ensure your **workers' views** on health and safety matters are **asked for** and taken into account (engagement)
- › Have clear, effective and **on-going ways** for your workers to suggest improvements or raise concerns on a day-to-day basis (participation)



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- All businesses should have planned, well known ways to engage with workers and support their participation in health and safety matters. This will help you and your business to make better decisions - and keep your people and productivity thriving.
- Workers are the eyes and ears of the business & know where the health and safety pressure points are.
- Businesses **have two related duties to engage with workers and enable them to participate** in improving health and safety. You must:
  1. ensure workers' views on health and safety matters are asked for and taken into account (engagement), and
  2. have clear, effective, and on-going ways for workers to suggest improvements or raise concerns on a day-to-day basis. (participation)
- Together with your workers, you can determine the best way to meet these two related duties. What is reasonable and practicable will depend on:
  - workers' views and needs,
  - the size of your business, and
  - the nature of its risks.
- The focus needs to be on effective practices rather than whether any particular systems or processes are in place

## 5. WORKER REPRESENTATION



- > **Any business** can have a Health & Safety Representative (HSR) or Committee (HSC)
- > HSRs **benefit business** and **workers** by providing:
  - A **clear, well known way** for workers to **raise issues** and **ideas**
  - **A voice for workers** who might not otherwise speak up about health and safety matters
  - **A link** between workers and management



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- Any business can have an elected HSR (Health and Safety Representative), or set up an HSC (Health and Safety Committee).
- Both are types of worker participation practice (and can also help with engagement). They provide clear, well-established ways for workers to contribute to improving health and safety at work.
- If a business has an HSR or HSC, the Act and Regulations set out requirements for how they will work.
- Some businesses **must** have an HSR (or to consider an HSC) if requested by a worker. This is where the idea of 'high-risk' categories comes in.
- Businesses with 20 or more workers **or** who are in one of the high-risk sectors or industries listed in the regulations, must:
  - arrange the election of HSRs **if requested** by a worker, and
  - consider whether existing worker participation practices are sufficiently effective and whether to establish an HSC, **if one is requested** by an HSR, or by five or more workers.

## WHAT ARE WE DOING TO HELP YOU?



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- WorkSafe has a number of ways to support businesses with understanding HSWA. Our inspectors and service centre staff are trained in all aspects of the new law, and can answer any questions you might have.
- If you haven't visited our website recently it's worth checking in now, and over the coming weeks and months.
- We've revamped our HSWA pages in a way we're told is a lot more user-friendly and focuses on making it easy for businesses and workers to identify what it is the need to know and what they need to do.
- We're progressively adding new information and resources and will continue to do so over the coming weeks and months.
- In addition to the more traditional Guides and Factsheets that we'll begin to publish online in March, we're also developing a range of practical tools and resources, including a risk management framework, case studies and videos, and some sector-specific interactive tools – including construction.
- We're interested in your feedback on these so we can continue to develop resources that you find



useful

## WHERE SHOULD YOU START?

- > **Review** your current Health and Safety practices
- > **Identify** what your key health and safety risks are
- > **Ask questions** – involve workers and the other businesses you work with
- > **Implement** appropriate controls
- > **Embed** Health and Safety into your culture. This isn't just the law, its good business and the right thing to do
- > Visit [www.worksafe.govt.nz/hswa](http://www.worksafe.govt.nz/hswa)



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- Note to speaker – There is a link on the next slide to play our Home Time ad. Just click on the banner to play.

**“We need a new way of thinking”**



**GETTING YOU HOME HEALTHY AND SAFE.  
THAT'S WHAT WE'RE WORKING FOR.**

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