

# The Health and Safety at Work Act 2015

Health and safety presentation for the compulsory schooling sector

# How is the Ministry supporting you

- Dedicated webspace: <http://www.education.govt.nz/ministry-of-education/specific-initiatives/health-and-safety/>
- 11 point health and safety system
- Practical guide for boards of trustees and school leaders: *Health and Safety at Work Act 2015. This includes:*
  - example policies
  - example procedures
  - example checklists and guidance
- Factsheets
- Sector reference group
- Letter to all schools
- Ministry advisors trained on how best to support the sector

## 11 key components of an effective health and safety system

<b>1. LEADERSHIP</b>	<b>2. WORKER PARTICIPATION</b>	<b>3. HEALTH AND SAFETY PRACTICE FRAMEWORK RESOURCES</b>	<b>4. RISK IDENTIFICATION, ASSESSMENT AND MANAGEMENT</b>
Set the direction of health and safety management in your workplace.	Effective formal and informal worker participation practices eg Health and Safety Reps and committees.	Health and safety in your workplace. Mandatory requirements, guidance, tools and resources..	Identifying hazards in the workplace and managing the associated risks.
<b>5. WORKPLACE MANAGEMENT</b>	<b>6. EQUIPMENT</b>	<b>7. INJURY AND ILLNESS MANAGEMENT</b>	<b>8. INJURY AND ILLNESS SUPPORT AND REHABILITATION</b>
Leading by example, property maintenance, inducting visitors to the workplace and emergency plans.	Provision of appropriate equipment for all work environments staff may encounter and equipment that may be used.	Notifiable injuries, reporting, recording and investigating incidents/accidents.	Structured systems to support the safe and early return to work of injured staff and workers.
<b>9. HEALTH AND WELLBEING PROGRAMMES</b>	<b>10. PROFESSIONAL DEVELOPMENT</b>	<b>11. MONITORING, REPORTING AND ASSURANCE</b>	
Proactive approach to ensuring that staff, volunteers and workers can actively manage their own health and wellbeing.	Information to help to empower staff and leaders to implement effective health and safety practices through Professional Development.	Promote a commitment to continuously improving health and safety performance. What is a monitoring and reporting system.	

## The HSWA works to focus effort on what matters, based on risk, control and size:

It reinforces “**proportionality**” – what a board needs to do depends on its level of risk and what it can control

It shifts from “hazard spotting” to actively **managing critical risks** – actions that are intended to reduce harm

It introduces the “**reasonably practicable**” concept – focusing attention on what’s reasonable for a board as a PCBU to do

It changes the focus from the physical workplace to the **conduct of work** – what the board as a PCBU actually does and so what it can control

It supports more **effective worker engagement and participation** – promoting flexibility to suit school size and situation.

# What will be different?

## **New terms:**

- Person Conducting a Business or Undertaking (PCBU) replaces Employer
- Worker - broader than Employee

## **New duties:**

- PCBU has “primary duty of care”
- Officer has duty of “due diligence”

## **Other features:**

- Stronger worker engagement requirements
- Redefining the workplace from a physical site to wherever the work is carried out
- New offences and higher penalties

# Roles in the school sector

**PCBU – Board of Trustees (as an entity)**

**Officer – individual members of the Board including the principal**

**Worker – any person who carries out work in any capacity for Boards of Trustees including principals, teachers, caretakers, contractors, volunteer workers**

**Other persons – any person within the school environment and/or workplace including students, parents, visitors, other volunteers and members of the public**

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# PCBU and the primary duty of care

The Board of Trustees as PCBU has the **primary duty of care** for, and controls risks to, the health and safety of workers and others at the workplace. They must ensure:

- the health and safety of their workers at work including volunteer workers
- the health and safety of other workers (e.g. contractors) who are influenced or directed by the PCBU
- the health and safety of other persons by ensuring they are not put at risk from work that is carried out by the PCBU

# Duty of individual board members including principals (officers)

**Individual board members including principals must exercise due diligence. This means they must take positive steps to ensure the Board of Trustees (as an entity) meets its health and safety obligations and duties**

## Officers have the duty of due diligence

**Officers must exercise due diligence to ensure the Board of Trustees as PCBU meets its health and safety obligations and duties. This includes taking reasonable steps to:**

- know about worker health and safety matters and keep up-to-date
- gain an understanding of the operations of the school and the hazards and risks generally associated with school operations
- ensure the Board of Trustees has appropriate resources and processes to eliminate or minimise those risks
- ensure the Board of Trustees has appropriate processes for receiving information about incidents, hazards and risks, and for responding to that information
- ensure there are processes for complying with any duty, and that these are implemented
- verify that these resources and processes are in place and being used



# Multiple PCBUs with overlapping duties

- Different PCBUs responsible for or working at the same premises e.g. repair trades people, landlords.
- The extent of PCBU's duty depends on **its level of influence and control** over workplace health and safety. This does not mean their duty is divided
- Less influence and control over workers of another PCBU need to make arrangements with the PCBU that's closer to the work
- PCBUs need to **consult, co-operate and co-ordinate** activities to meet shared responsibilities

# Education Outside The Classroom

**It is not the intention of the legislation to curtail EOTC experiences.**

**EOTC is an example of where more than one PCBU may be involved, eg a Board of Trustees and a museum or adventure activity operator.**

They must:

- consult, coordinate and collaborate with each other to meet their shared responsibilities
- work together to meet their duties to ensure that the work or activity does not pose risks to people's health and safety



# Duties of workers and other persons

Workers and other persons have a duty to:

- take reasonable care for their own health and safety
- take reasonable care that their acts or omissions do not adversely affect the health and safety of other people
- comply, so far as reasonably able, with any reasonable instruction that is given to them by the Board of Trustees to allow the Board of Trustees to comply with the law
- cooperate with any reasonable policy or procedure of the PCBU relating to health or safety at the workplace that has been notified to workers (this applies to workers only)

# Volunteers

There are two categories of volunteer under the Act:

Volunteer workers:	Other volunteers:
<p>Volunteer workers are:</p> <ul style="list-style-type: none"><li>• people who regularly work for a school on an ongoing basis and are <b>integral to the organisation's operations</b></li></ul> <p>Examples include:</p> <ul style="list-style-type: none"><li>• Mentors/coaches of at risk children, breakfast club helpers</li></ul>	<p>Volunteers doing the following activities are <b>NOT</b> volunteer workers:</p> <ul style="list-style-type: none"><li>• participating in a fundraising activity for a school</li><li>• assisting with sports or recreation for a school (eg, sports day, school fair)</li><li>• assisting with activities for a school outside the premises or grounds of the school e.g. EOTC</li></ul>
<p>Duty of the PCBU (Board):</p> <ul style="list-style-type: none"><li>• to ensure the health and safety of volunteer workers as required for workers</li></ul>	<p>Duty of the PCBU (Board):</p> <ul style="list-style-type: none"><li>• to ensure the health and safety of other volunteers as for other persons</li></ul>

# Worker engagement and participation

Boards of Trustees have a duty to involve their workers (excluding volunteer workers) in work health and safety and must :

- **engage** with workers about health and safety matters that directly affect them
- have effective practices that allow workers to have an **opportunity to participate** in improving work health and safety on an ongoing basis

These practices may include:

- having health and safety as a regular agenda item at meetings
- a feedback mechanism for staff to raise health and safety concerns with the Board of Trustees
- health and safety representatives (HSRs) and/or health and safety committees (HSCs)

# Hazards and Risks

## **Hazard**

A situation or thing with the potential to cause death, injury or illness

## **Risk**

The likelihood that death, injury or illness might occur when exposed to a hazard

Hazards at work may include: hazardous substances, vehicles, plant and equipment, falling objects, repetitive movements, fatigue, bullying and violence at the workplace, and falls, slips and trips.

# Risk management

**Boards (as PCBUs) must manage risk and ensure, so far as is reasonably practicable, health and safety under the Act.**

Managing work health and safety risks involves the following four steps:

- identifying hazards
- assessing risks
- controlling risks
- reviewing control measures

# Induction, training and information

All Boards of Trustees must:

- ensure every person has an appropriate induction to the workplace, whether they are a worker or other person such as a visitor, parent, other volunteer, etc
- ensure an emergency plan is in place for the workplace
- develop and encourage a health and safety culture

Induction is the process of familiarising people new to your workplace with your health and safety requirements.



# Notifiable events

A notifiable event is defined in the Act as the death of a person, a notifiable injury or illness, or a notifiable incident that arises from work. A near miss can be a notifiable event and PCBUs have a duty to notify the regulator

**A notifiable injury or illness is one that requires the person to:**

- have immediate treatment (other than first aid)
- be admitted to a hospital for immediate treatment
- have medical treatment within 48 hours of exposure to a substance

A **notifiable incident** means an unplanned or uncontrolled incident in the workplace that exposes a worker or any other person to a serious risk to that person's health or safety arising from an immediate or imminent exposure to a variety of hazards

# Major offences and penalties

Role	PCBU	Officer	Worker	Other People
Board of Trustees (as an entity)	Fine up to \$300k or \$1.5M or \$3M			
Elected/appointed Trustees (individuals)		No fine – exempt from liability for breach of duty		
Principal		Fine up to \$100k or \$300K or \$600k & up to 5 yrs	Fine up to \$50K, \$150K or \$300k & up to 5 yrs	
Teachers and other staff			Fine up to \$50K, \$150K or \$300k & up to 5 yrs	
Other people (students, public & parents)				Fine up to \$50K, \$150K or \$300k & up to 5 yrs

1. Failure to comply with H&S duty (no risk of death or serious illness/injury)
2. Failure to comply with H&S duty (exposes individual to risk of death or serious illness/injury)
3. Reckless conduct - without reasonable excuse engages in conduct that exposes any individual to whom H&S duty is owed to a risk of death or serious injury/illness AND is reckless as to the risk

A woman with blonde hair, wearing a grey patterned top and a dark blazer, is smiling and assisting a young boy on a playground structure. The boy is wearing a grey t-shirt, light-colored shorts, and a blue cap with glasses. He is holding onto a black vertical pole. To the left, three other children are watching: a girl in a green hoodie, a boy in a blue cap and green t-shirt, and a boy in a blue cap and a patterned shirt. They are standing on a grassy area with a blue fence in the background.

# Next steps

**Now is a good time to review your health and safety policies**

**Prepare for the new legislation by familiarising yourself with key concepts**

**Exercise caution when approached by external auditors and trainers offering services relating to the new legislation**

**Note: until 4 April, when the new Act comes into force your school must continue to meet the requirements of the current Health and Safety in Employment Act 1992**

# Further Guidance

- The Ministry of Education health and safety web space:  
<http://www.education.govt.nz/ministry-of-education/specific-initiatives/health-and-safety/>
- The Health and Safety regulator WorkSafe:  
<http://www.business.govt.nz/worksafe>
- Administrator of Health and Safety legislation MBIE:  
<http://www.mbie.govt.nz/>
- If you have specific questions please contact our project manager at [healthandsafety.info@education.govt.nz](mailto:healthandsafety.info@education.govt.nz) or your local Ministry of Education office