

**Health, Safety and Wellbeing Committee Information
Session/Workshop
MINUTES ATTACHMENTS**

Date: Thursday 7 November 2024
Time: 1.00pm
Venue: Committee Room 1, Level 2, Civic Offices,
53 Hereford Street, Christchurch

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Health, Safety and Wellbeing Committee of Council

Workshop on Governance Responsibilities

7 November 2024

Health, Safety and Wellbeing Team

Workshop Purpose

- Strengthen Oversight of Governance in the Council Context
- Equip elected and independent members with the knowledge and tools to effectively oversee governance by the ELT.
- Clarify the committee's role in ensuring ELT accountability for embedding governance principles in Council operations.

Outcome Sought

- Establish **robust oversight mechanisms** to track the ELT's performance in fulfilling these responsibilities.
- Reinforce the committee's role in ensuring **effective assurance processes** and holding the ELT accountable.

Scope

- Understand the Importance of Governance in Council's Health, Safety, and Wellbeing (HSW) efforts.
- Define
 - What is a PCBU
 - Duty of Care
 - What or who are Officers under the Act
 - Overlapping duties
- Understand liability
 - All levels of staff
 - Individual
 - Organisational
 - Contractors
- Define the Committee's role in ensuring the governance principles are embedded and being effectively applied by the ELT.

Health and Safety at Work Act, 2015 (HSWA)

36 Primary duty of a PCBU

A PCBU must ensure, so far as is reasonably practicable, the health and safety of—

- (a) workers who work for the PCBU, while the workers are at work in the business or undertaking; and
- (b) workers whose activities in carrying out work are influenced or directed by the PCBU, while the workers are carrying out the work.

So far as is reasonably practicable

- Provide and maintain a workplace that is without risks to health and safety
- Ensure the safe use, handling and storage of plant, structures and substances
- Provide adequate facilities and access those facilities for workers
- Provide information, training and supervision necessary to protect workers
- Monitor the health of workers and conditions at the workplace for the purpose of preventing illness or injury.

Health and Safety at Work Act, 2015 (HSWA)

Sect 18 Meaning of Officer

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.

Example: Chief Executive and General Managers

A person who merely advises or makes recommendations to these roles is not an Officer.

Sect 44 Duty of Officers

- (1) If a PCBU has a duty or an obligation under this Act, an officer of the PCBU must exercise due diligence to ensure that the PCBU complies with that duty or obligation.
- (2) For the purposes of subsection (1), an officer of a PCBU must exercise the care, diligence, and skill that a reasonable officer would exercise in the same circumstances, taking into account (without limitation)—
 - (a) the nature of the business or undertaking; and
 - (b) the position of the officer and the nature of the responsibilities undertaken by the officer.
- (3) Despite subsection (1), a member of the governing body of a territorial authority or regional council elected in accordance with the Local Electoral Act 2001 does not have a duty to exercise due diligence to ensure that any council-controlled organisation (as defined in section 6 of the Local Government Act 2002) complies with its duties or obligations under this Act unless that member is also an officer of that council-controlled organisation.

Sect 44 Duty of Officers (cont)

- (4) In this section, **due diligence** includes taking reasonable steps—
- (a) to acquire, and keep up to date, knowledge of work health and safety matters; and
 - (b) to gain an understanding of the nature of the operations of the business or undertaking of the PCBU and generally of the hazards and risks associated with those operations; and
 - (c) to ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking; and
 - (d) to ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards, and risks and for responding in a timely way to that information; and
 - (e) to ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the PCBU under this Act; and
 - (f) to verify the provision and use of the resources and processes referred to in paragraphs (c) to (e).

Health and Safety at Work Act, 2015 (HSWA)

Overlapping duties

- When the work of two or more businesses overlap, they must work together to fulfil their duties of care.
- Where their duties overlap, businesses need to consult, cooperate and coordinate activities to meet their health and safety responsibilities to workers and others.
- Upstream business (architects, importers, etc) must ensure, so far as reasonably practicable, that the work or things they provide to other workplaces don't create health and safety risks.
- Duties are not transferable (Sect 31).
- Duties cannot be contracted out of (Sect 28).

Primary duty of care relates to the entity that the most control and direction over the work

Health and Safety at Work Act, 2015 (HSWA)

Sect 50 Liability of officers

An officer of a PCBU may be convicted or found guilty of an offence against [section 44](#) whether the PCBU has been convicted or found guilty of an offence under this Act relating to the duty or obligation.

Sect 52 Liability of certain office holders

- (1) An office holder listed in subsection (2), when acting in that capacity, does not commit an offence under [section 47](#), [48](#), or [49](#) for a failure to comply with the duty imposed by [section 44](#) (duties of officers).
- (2) The office holders are—
 - (a) a member of the governing body of a territorial authority or regional council elected in accordance with the [Local Electoral Act 2001](#);
 - (b) a member of a local board elected or appointed under the [Local Electoral Act 2001](#);
 - (c) a member of a community board elected or appointed in accordance with the [Local Electoral Act 2001](#).

Framework

- Discuss Executive Leaders Guide to Health, Safety and Wellbeing Governance
- Reporting standards / complexities of reporting e.g. size and spread of Council (RSE example)
- Discuss a structured approach for the committee to evaluate the ELT's performance.
- How can we monitor ELT's implementation of their governance health and safety responsibilities.
- Focus on accountability and assurance that the ELT is meeting Section 44 obligations.

Key Elements

- Clear metrics and performance indicators.
- Regular reporting and feedback loops.
- Periodic review of ELT actions based on health and safety outcomes.
- Ensure transparent communication between the ELT and the committee.

New Report Format (draft)

- High risk activities across the month, and any incidents occurring during the activity,
- Any incidents involving critical risks across the month, report on Top five and what it is telling us
- Analysis of the risks and what this means for the organisation, including where activity has not been occurring as expected,
- During incidents involving critical risks, what critical controls have failed or were not present, how did this contribute to the event occurring,
- Forward work and how we are promoting a safe culture,
- Investigations, serious injuries and outcomes from the investigations.

Focus on analysis, the why and what we can do to prevent reoccurrence and being proactive with lessons learnt for Units and the Organisation as a whole

Critical Risks

Psychosocial Harm
Confined Spaces
Hazardous Substances
Moving Objects
Biological Harm

Working at Height
Working Alone
Manual handling
Falling Objects
Service Strikes

Next Steps

- Additional workshops and briefings to deepen understanding and develop more resources.
- Conduct a governance responsibilities workshop with the ELT to align expectations.
- Continue to develop committee oversight and understanding of the execution of health, safety, and wellbeing responsibilities across Council.