

Briefing

***BRIEFING TO THE INCOMING
MINISTER FOR WORKPLACE
RELATIONS AND SAFETY***

June 2023



Te Kāwanatanga o Aotearoa
New Zealand Government

WORKSAFE
Mahi Haumarū Aotearoa

PURPOSE

On behalf of WorkSafe New Zealand and its Board, welcome to the Workplace Relations and Safety portfolio. We look forward to working with you.

This briefing provides a high-level summary about WorkSafe and health and safety in New Zealand. Further information can be provided at your convenience. We will align our approach to your preferences for engaging with officials.

ABOUT WORKSAFE NEW ZEALAND

How we support you as Minister

As a Crown agency our primary relationship with you is via our Board Chair, Jennifer Kerr. Jennifer currently meets with you once a month alongside WorkSafe's Chief Executive, Phil Parkes, and officials from the Ministry of Business, Innovation and Employment. Profiles of our Board and Executive Leadership Team are attached as **Appendices 1 and 2**.

WorkSafe has an experienced Private Secretary seconded to your office and we provide a Weekly Report outlining matters for your attention. WorkSafe officials attend weekly officials' meetings alongside MBIE officials, and we also support you at stakeholder meetings as requested by your office.

History, role and functions

WorkSafe is New Zealand's primary health and safety regulator. We were established in 2013 following the tragic deaths of 29 workers in the Pike River mine disaster. The subsequent Independent Taskforce on Workplace Health and Safety recommended establishing a dedicated arms-length regulator as part of a suite of recommendations aimed at transforming health and safety in New Zealand.

WorkSafe's primary objective is to contribute to a balanced framework for health and safety in New Zealand. Our other objective is to contribute to the safe supply of electricity and gas. The latter extends our regulatory role from workers and workplaces into private homes.

In practical terms, contributing to a balanced framework means health and safety must be a collective priority for businesses, workers, unions and government (including government agencies). Our regulatory functions (established by the WorkSafe Act 2013) can be grouped into three broad categories:

- **preventing and addressing work harm**, including through enforcement and compliance
- **promoting better work** by publishing guidance, developing approved codes of practice and disseminating best practice
- **connecting the health and safety system** by fostering productive relationships between workers and employers and sharing health and safety information with interested parties.

Over time, our regulatory focus has shifted from primarily acute injuries and deaths to include broader work harm areas including health-related harm, COVID-19 and mentally healthy work. This is important because this supports greater progress on improving health and safety but also creates tension around how we deploy our finite regulatory resources to make the biggest impact.

Our legislative context

Our primary legislation is the Health and Safety at Work Act 2015 (HSWA). HSWA supports a balanced framework for health and safety by placing legal duties on businesses, organisations and workers. It also extends duties to different facets of work including:

- directors and other people who influence health and safety culture (**officer duties**)
- designers, manufacturers, importers and installers (**upstream duties**)
- shared risks that span multiple organisations and require deliberate coordination and cooperation (**overlapping duties**).

HSWA is deliberately broad and non-prescriptive. Almost all conceivable work falls under HSWA and could theoretically receive attention from WorkSafe. HSWA also crosses legislative and government agency boundaries, such as work-related vehicle incidents on public roads which could potentially be of interest to WorkSafe, NZ Police and Waka Kotahi under different legislation.

This creates complexity and can make it challenging to communicate why WorkSafe does or does not intervene in a particular matter. This often manifests as a perception of WorkSafe as either heavy-handed or ineffective at tackling harm, depending on our intervention decision. Because of this, we use publicly available criteria and decision flows to decide whether we intervene in an incident¹ and make enforcement decisions².

Given our broad scope, we use data to target our finite resources to where we can make the biggest impact on health and safety outcomes. We also use our regulatory functions flexibly to drive different outcomes depending on the circumstances. Our priority activity areas are:

Priority area	Explanation
Protecting people from machines	Preventing accidents and injuries by requiring organisations to control how people interact with vehicles, machinery and structures.
Reducing harmful exposures	Reducing health-related harm by ensuring workers and the public are not exposed to harmful substances.
Supporting worker voice	Helping workers drive health and safety change by giving them time, tools and space to influence work.
Promoting good work design	Stopping harm before it happens by being smart about how we design and do work.

HSWA is supported by a suite of regulations which provide detailed requirements for certain high-risk work such as hazardous substances, asbestos, Major Hazard Facilities and mining and quarrying. Undertaking a comprehensive regulatory reform programme was a key recommendation of the Independent Taskforce on Workplace Health and Safety following Pike River. MBIE and WorkSafe continue to work hard to progress the reform programme, 9(2)(g)(i). Completing the reforms is vital to improving health and safety outcomes in New Zealand and we encourage you to make this a priority.

¹ [When we intervene | WorkSafe](#)

² [Enforcement Decision-making Model | WorkSafe](#)

NATIONAL HEALTH AND SAFETY PERFORMANCE

Health and safety performance in New Zealand has improved since Pike River but remains behind similar countries such as Australia and the United Kingdom, which experienced their watershed health and safety events in 1970 and 1966 respectively. Other factors include prevalence and distribution of higher-risk work activities and ingrained attitudes such as a “she’ll be right” attitude in certain industries.

In 2013 the Fifth National Government set national targets for reducing fatal injuries, serious non-fatal injuries and injuries resulting in more than a week away from work by 25% by 2020. Of these:

- the fatal injuries target was exceeded with a 33% reduction from baseline, but progress has plateaued in recent years
- the serious non-fatal injuries target has trended downward but did not meet the target. The downward trend has continued, and the level of reduction now sits at 23% at the end of 2021
- week away from work injuries (measured by ACC claims) have been steadily increasing since 2013. However, the overall number of work-related ACC claims has reduced by 17% over the same period.

WorkSafe is contributing to MBIE-led advice on new national targets, and MBIE can advise when this is expected to be provided to you for your consideration. We anticipate that the next set of national targets cover a broader range of work harm areas, including health-related harm and reducing the unacceptable equity gap that exists for Māori, Pacific Peoples and migrant workers.

STRATEGIC CHALLENGES

Financial context

Since 2013 WorkSafe has grown in both size and scope. Successive investment from government has increased our capacity and capability to regulate new areas through tagged funding for specific purposes, such as mentally healthy work and psychosocial harm and COVID-19 enforcement. We have also received investment in standalone ICT systems following our split from MBIE, which allows us to drive efficiencies for our inspectors and regulatory delivery staff through dedicated systems and infrastructure.

However, funding for WorkSafe’s core regulatory activity has not increased in line with demand, reducing our ability to enforce minimum standards across the economy. For example, the Independent Taskforce on Workplace Health and Safety recommended an inspector ratio of 10.7 inspectors per 100,000 workers. WorkSafe had an inspector ratio of 8.4 per 100,000 at establishment, but this has declined significantly to the current ratio of 6.3 per 100,000 in 2023/24 as the number of workers has grown.

Research shows that organisations inspected by WorkSafe have lower rates of serious ACC claims compared to non-inspected organisations. Our inspectors do valuable work that prevents work injuries and deaths.

9(2)(f)(iv)

9(2)(f)(iv), 9(2)(g)(i)

9(2)(f)(iv)

WorkSafe has decided to commence rebuilding our inspector ratio back to 2013 levels over the next three years. 9(2)(f)(iv)

9(2)(f)(iv)

Implementing recommendations from the strategic baseline review

The Independent Taskforce on Workplace Health and Safety recommended that the Government consider providing the new regulator with a three-year rolling appropriation. This was intended to provide greater certainty and stability of funding.

In response to a request for sustainable funding in 2019, the previous Minister for Workplace Relations and Safety commissioned a strategic baseline review which was completed in 2022. It found that cost pressures over the next ten years are estimated to total \$200.1 million. The baseline review also found that, while there were no significant issues with how we were carrying out our regulatory role, our strategy and impact was unclear and we needed to improve our strategic finance capability. WorkSafe is fully committed to implementing the recommendations arising from the baseline review, not least because sustainable funding is dependent on full implementation of the recommendations.

We have significantly increased our strategic finance capability, allowing us to better quantify our financial challenges and cost drivers. We have completed work on an intervention logic model and good progress is being made on activity analysis and inputs-outputs-outcomes model. These documents form the building blocks of a clear story about the value of the Government's investment in WorkSafe.

We are also making good progress on simplifying our strategy and creating a single unifying document that clearly articulates where and how we are intervening to improve health and safety outcomes. Our next Statement of Intent period will commence in 2024/25, providing a further opportunity to communicate our focus, outcomes and impacts.

Governance of the baseline review implementation work is shared between WorkSafe, MBIE and Treasury. 9(2)(f)(iv)

MATTERS FOR IMMEDIATE ATTENTION

Whakaari / White Island prosecution

In 2020 WorkSafe laid charges against 13 parties for alleged breaches of health and safety in the lead-up to the Whakaari / White Island eruption. Since the charges were laid:

- flight operator Inflight Charters Limited pleaded guilty and was sentenced in March 2023
- tour operator White Island Tours Limited pleaded guilty to two amended charges
- the National Emergency Management Agency (NEMA) successfully applied to have its charge dismissed, on the basis that it did not owe duties under HSWA
- GNS Science pleaded guilty to one amended charge and had another dismissed (based on the NEMA decision).

Nine defendants remain and the trial is set down for four months starting in July 2023. It will be one of the largest trials in New Zealand and will attract significant international and media attention. We are unlikely to make any comment while the trial is underway. 9(2)(f)(iv)

9(2)(f)(iv)

We will endeavour to brief you about trial matters pertaining to your portfolio under no surprises, but in practice we are limited in what we can share. However, we will provide your office with key messages that can be shared with Ministerial colleagues that may also be approached during the trial (e.g. the Minister of Tourism, Hon Peeni Henare).

Upcoming Ministerial decisions / papers

Several papers are due to be submitted to your office in the coming weeks:

Title and submission date	Origin of paper	Action required
22 June 2023 Aide Memoire: Advice on Hire Industry Association of New Zealand (HIANZ) Elevated Working Platforms' presentation	Arises from concerns raised with the previous Minister by HIANZ about classifying elevated working platforms as 'high-risk plant' under the proposed Plant and Structures regulations.	Note the information provided and ongoing interest in the reforms from HIANZ and other stakeholders.
26 June 2023 Briefing: Mining and Quarrying Operations Safe Work Instrument	As Minister for Workplace Relations and Safety, you are responsible for approving Safe Work Instruments (SWIs) prepared by WorkSafe. SWIs are a type of secondary legislation that support or supplement existing Regulations.	Approve the SWI and note that we will work with your office on the process for submitting it to the House of Representatives.

9(2)(f)(iv)

Further information about any matter raised in this briefing can be provided at your convenience.

Appendix 1: WorkSafe Board profiles



Jennifer Kerr, Board Chair

Jennifer Kerr is a professional director who has extensive senior executive experience, predominantly in human resources management. Her current governance roles include Chair of New Zealand Trade and Enterprise, Deputy Chair of Callaghan Innovation, director of Waipa Networks Limited, director of Eke Panuku Development Auckland and member of the New Zealand Police Assurance and Risk Committee.



Bill Moran, Deputy Board Chair

Bill Moran has significant experience in the public sector, particularly in business transformation leadership and economic and financial expertise. Bill worked at the New Zealand Treasury for 30 years and is now the Chair of Sport New Zealand, High Performance Sport New Zealand and the New Zealand Sports Foundation. He is deputy Chair of Community Trust South and a director of Pioneer Energy, Southern Generation, Invest South, Youthtown, and Sky City Charitable Trust Queenstown. In 2019 he was awarded a Member of the New Zealand Order of Merit for services to State, Sport, and Youth.



Kristen Thompson

Kristen Thompson is a lawyer with a background in employment, health and safety, and personal injury law, predominantly for unions and injured workers. She has previously worked as a litigator and advisor to several not-for-profit incorporated societies and charities. She has also worked as a health and safety policy analyst for the New Zealand Council of Trade Unions. She also sits on a number of other boards.



Pauline Lockett

Pauline has a wide range of governance and commercial experience including partner in PriceWaterhouseCoopers for 20 years. She was appointed in 2017 as an independent Director of the Ngati Te Whiti Whenua Topu by the Maori Land Court and was subsequently appointed by the Trustees as Chairperson of the Trust from 2018 to 2020. Pauline is a Board member of the Taranaki District Health Board between 2010 and 2019 and was the Chairperson from 2013 to 2019.

**Bill Newson**

Bill is the National Secretary of E tū, New Zealand's largest private sector union. He has senior governance experience as a Board member of Competenz Industry Training Organisation, a founder and trustee of Apprentice Training NZ, and was a member of the 'Work Related Health Advisory Group' advising the WorkSafe Board on occupational health. Bill is a current Board member of Waihanga Ara Rau (the Construction and Infrastructure WDC), CHASNZ (Construction Health and Safety New Zealand), a member of the Construction Accord Steering Group (ASG) and MATES in Construction, a Trust that intervenes in the issue of mental health in the construction industry.

**Lois Hutchison**

Lois has over 30 years' senior management experience in the public sector in the areas of social justice regulation as the statutory decision maker for the Video Recordings Authority and Deputy Chief Censor at the Office of Film and Literature Classification; in health as General Manager, Hospital Services at Midcentral DHB; and transport as Chief Executive of the Transport Accident Investigation Commission (TAIC). Lois is currently the Deputy Chairperson of the Radiation Safety Advisory Council. She is a Fellow of the Australian Institute of Health and Safety (Hon.) and holds degrees of Master of Public Policy from Victoria University of Wellington, and Master of Science Managing Organisational Performance from Cranfield University, UK.

Appendix 2: WorkSafe Leadership Team profiles



Phil Parkes, Chief Executive

Phil was appointed Chief Executive of WorkSafe in 2020. Prior to this, Phil held several leadership positions at WorkSafe including as Chief Operating Officer, where he was head of our Operations Group of over 300 employees, including our frontline inspectors and investigators. He has also held senior regulatory leadership roles at the Environment Protection Authority, Ministry for Primary Industries and Waikato Regional Council.



Mike Hargreaves, DCE Strategy and Insights

Mike joined the Department of Labour's legal team in 2002 as a solicitor, becoming a senior solicitor in 2006.

In these roles, Mike prosecuted many cases under the Health and Safety in Employment Act, including the Sir Edmund Hillary Outdoor Pursuits Centre following the Mangatepopo canyoning tragedy in 2008. Mike became the Director Litigation for the Department of Labour in 2009. Mike was previously in private practice in Taranaki.



Rachel Gully, DCE Corporate

Rachel's leadership experience includes as Director for People and Culture at Te Whatu Ora - Capital, Coast and Hutt Valley, where she led the emergency response to the COVID-19 pandemic, the health response to the vaccine mandate, and supported the District Health Board reforms into a single entity, Te Whatu Ora. Rachel was previously Group Manager People and Culture at Oranga Tamariki. Prior to that, she held a number of HR leadership roles including at the Civil Aviation Authority, Customs, and the Ministry of Health.



Quin Carver, DCE Enterprise Transformation

Quin was appointed as General Manager Digital Transformation in March 2021. Before taking up the General Manager role, he initially came to WorkSafe on a secondment to lead the creation of a digital strategy. Prior to joining WorkSafe, he was Deputy Chief Executive - Corporate, and before that Chief Information Officer, at the Ministry of Housing and Urban Development, following 16 years in a range of senior leadership and technical leadership roles at Land Information New Zealand.

**Kane Patena, DCE Operations (June 2023)**

Kane's last role was Director of Land Transport and Group GM Regulatory at Waka Kotahi, having joined following independent reviews into Waka Kotahi's regulatory performance. Prior to this, Kane was GM Strategy and Governance at Wellington City Council and Partner and Crown Prosecutor at Meredith Connell. Although Kane was born in Auckland, his iwi affiliation is Ngāti Haua in the Waikato Tainui area.

**Paula Collins, DCE Equity Partnerships and Intervention Design (July 2023)**

Paula is an uri of Ngā Rauru and Ngāti Ruanui and is a Ngāti Toa Rangatira whāngai. She has most recently worked Te Rūnanga o Ngāti Toa Rangatira as the executive leader across Treaty partnerships, culture and the environment. She was previously regional commissioner for the Department of Corrections, leading 2,500 staff across five prisons and 30 probation sites, and has held CE and DCE roles in education.

