



Risk & Safety Management Solutions

Changing Safety Legislation Implications for Risk Managers

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Leadership
starts at the top



Consulting
how can we help?



Training
helps you get home safe



Risk Manager
online safety intelligence



CPNZ
contractor evaluation



working to keep your work safe

Safety in the Org Risk Register

A typical example.....

Title	Consequences	Inherent Risk	Controls	Current Risk Exposure
Failure to Comply with the Health and Safety in Employment Act	Fines – Max \$500,000 Minor reputation damage	High	Health and Safety Management System ACC WSMP Audit	Moderate

Are we concerned about compliance or keeping people safe?

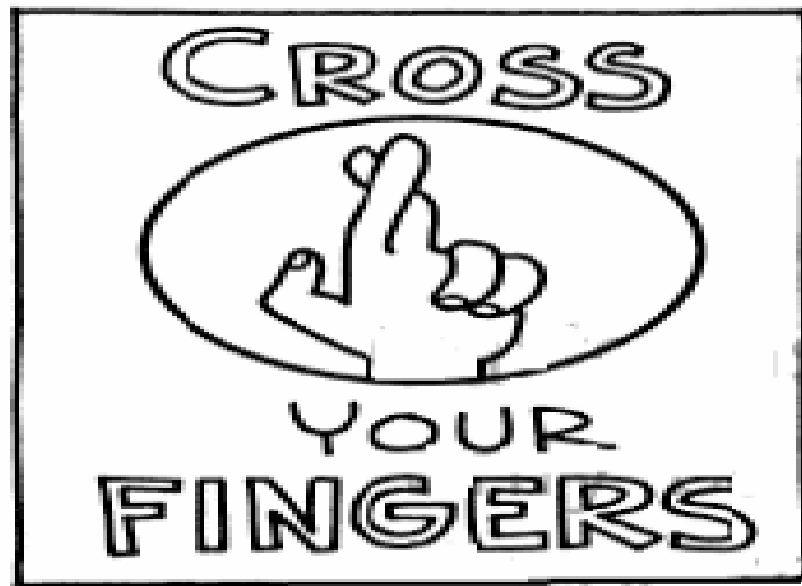
Typical Hazard Registers

The generic register.....

Hazard	Sign Haz	Hierarchy	Controls
Handling Chemicals	Y	M	PPE Training Safety Data Sheet

The “Fix It” list

Hazard Report	Sign Haz	Hierarchy	Control Actions
Broken Light – dark in store room	Y	E	Replaced bulb
Frayed carpet – trip hazard	Y	M	Have taped down



"We've saved a lot of money
with this safety plan so far."

Changing Times, Changing Expectations

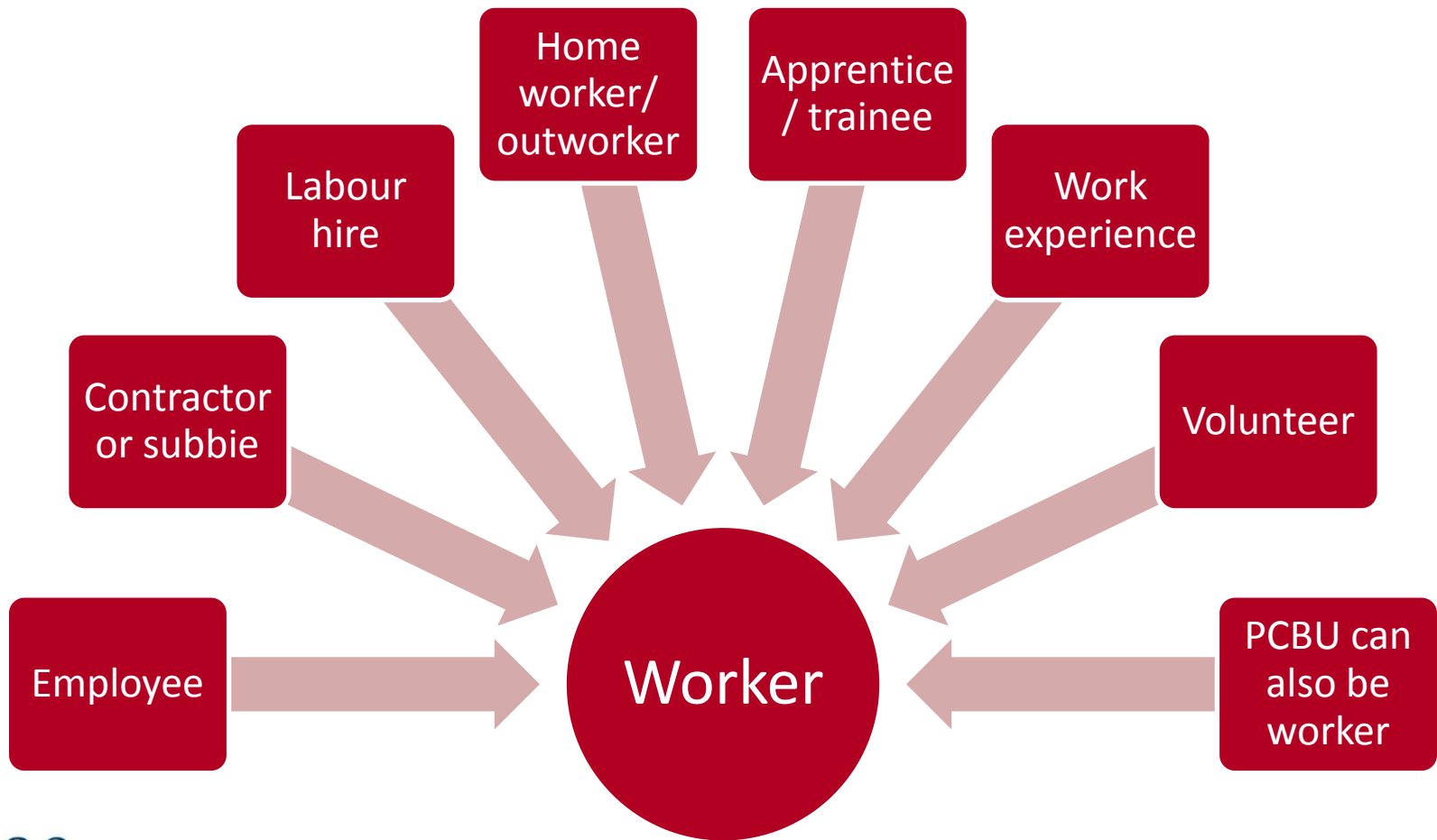
- A New Regulator
- New Legislation
- New Responsibilities
 - ☐ PCBU
 - ☐ Due Diligence Duty of Officers
- Higher Penalties



Employer / Employee to PCBU / Worker

- Person Conducting a Business or Undertaking (PCBU) Has the primary (prescribed) duty of care
- **PCBU must ensure, so far as is reasonably practicable, the health & safety of Workers while engaged at work in the business or undertaking, and that other persons, are not put at risk from the conduct of the business or undertaking**
- If more than one person has a duty relating to the same matter, all parties must **consult, co-operate with, and co-ordinate activities** with those other persons. E.g. Principal, Contractor, Sub Contractor, Supplier, etc.

Designed to protect all Workers



Legislative Changes

- Change from “Hazard” to “Risk” (*although terms often used interchangeably!*)
- Change from taking “all practicable steps” to “reasonably practicable” (are costs grossly dis-proportionate to the risk).
- Hierarchy of Control replaced with “eliminate or minimise the risk”

THERE IS NO SUCH THING AS ABSOLUTE SAFETY!!

Creeping Entropy

Murphy's Law

Normalisation

Routines

Hazards

Applying “Reasonably practicable”

- Industry knowledge
- Outside of NZ as well!

Likelihood



- Known consequences
- Your responsibility to know

Consequences



- What is best practice?
- “Reasonably ought to know”

Knowledge



- Available
- Suitable
- Effective

Controls



- Can't use as an excuse
- “Grossly disproportion

Cost



Findings from the field

- The standard of safety management is not as high as you would hope!
- “All Practicable Steps” has not been applied. Minimisation options frequently chosen.
- Practitioners have been “Injury focused” not “risk” focused
- Contracted activities often neglected
- Processes frequently “manual” and “local”
- Risk assessments very subjective
- Everyone now seems to be a safety expert (New Risk!)
- Assurance lacking

Motivation for Change –Due Diligence

An “Officer” can include any Director, Partner, Chief Executive and other Senior Managers whose decisions impact the whole or substantial part of the business. Officers must take reasonable steps to:

- **Knowledge** - Acquire and keep up to date with knowledge of health and safety matters
- **Understanding** - Gain an understanding of the PCBU's business operations and the associated hazards and risks
- **Resources** - Ensure the PCBU has available for use, and uses, the appropriate resources and processes to eliminate or minimise risks to health and safety
- **Reporting and Responding** - Ensure the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information
- **Processes** - Ensure the PCBU implements processes for complying with any duty or obligation under the Act
- **Assurance** - Verify the provision and use of resources and processes required for compliance.

New Penalties

	Body Corporate/ PCBU	Individual who is PCBU or Officer	Individual not PCBU or officer
Reckless conduct: risk of death, serious illness or injury	\$3m	\$600k fine and/or 5 years prison	\$300k fine and/or 5 years prison
Failure to comply with duty, exposes individual to risk of death, serious illness or injury	\$1.5m fine	\$300k fine	\$150k fine
Failing to comply with specific health and safety duty	\$500k fine	\$100k fine	\$50k fine
Breach of other specific duties	Various, fines up to \$25k		

Categories based on degree of 'culpability' and risk/degree of harm

Note: Your insurance will not cover this.

Recommendations

- Risk based approach will be necessary
- Make sure you know the specific risks that could cause significant injury or illness
- Gap Analysis - Get an audit or review completed
- Ensure your business has access to **competent** internal or external H&S advice
- Seek assurance around critical processes and specific controls

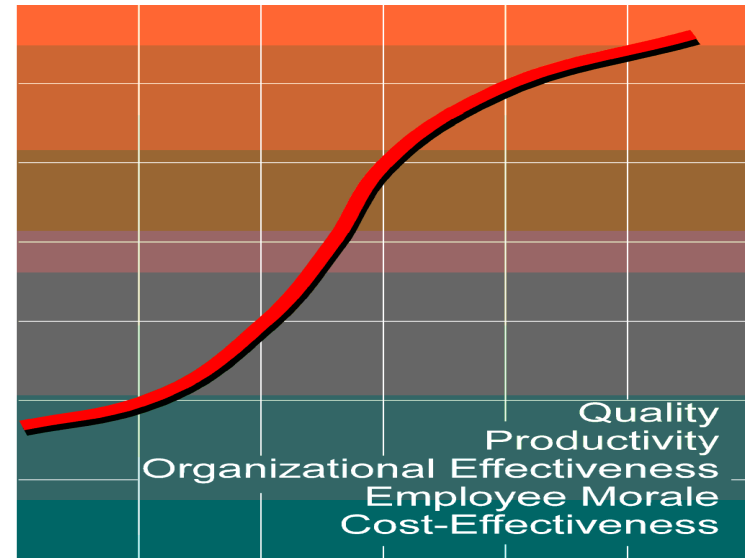
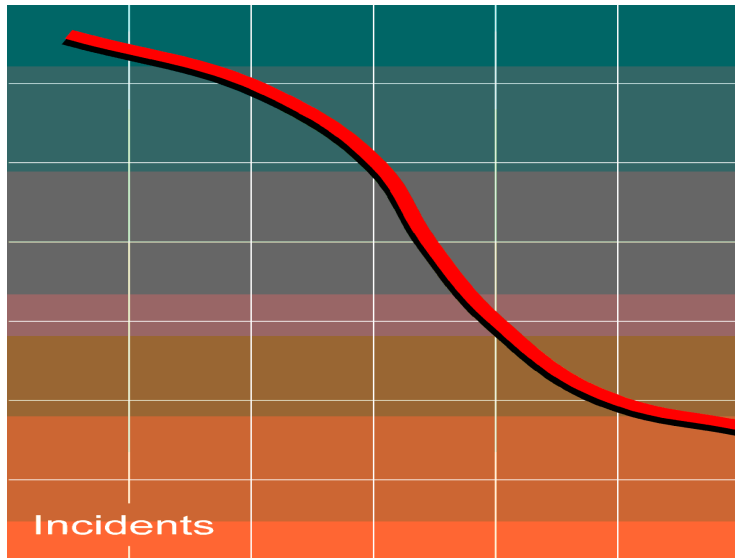
Don't let NZ become risk adverse!!



Good Safety

=

Good Business



Health and safety should be part of everyday business, it makes good business sense.

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