



RiskPost

Issue 15 No. 4 November 2015

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Editorial

Miles Crawford

Editor, RiskPost

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This is the final issue for this calendar year – a year of beginnings and endings for RiskPost: I began editing RiskPost in March this year - the first time a RiskPost editor has sat outside of the Management Board; this is the end of RiskPost being presented in this format - expect to see a fresher, more professional looking RiskPost at the beginning of next year; this issue of RiskPost follows a theme - the first time a themed issue has been run (in my memory); and that theme is around Health and Safety risk management, with new risk based legislation taking effect in the beginning of next year.

When the new Health and Safety legislation is enacted it will bring with it some more onerous responsibilities for people and organisations to manage their Health and Safety risk, rather than just their hazard. While some proponents of risk management would say that this doesn't change anything for the risk management profession – I think it does. Until now the closest risk management has come to legislation has been as an optional tool providing assurance around how legislated responsibilities are managed. And this link was pretty tenuous at best; I remember reading 200 page Statements of Intent which had only a paragraph on risk management.

What this Health and Safety legislation does is make risk management a responsibility with very real, non-transferable repercussions if it isn't governed properly. Boards and Executives have sat up and taken notice that risk management is no longer an overhead that may help them save money, but something that they need to really understand and use well, or else... And who's to say that it's going to stop there? I think risk based policy is poised to invade legislation across the board: The Local Government Act, The Resource Management Act, The Civil Aviation Act, to name just a few.

Given this renaissance for the implications of risk management, you would expect that, as a professional body of risk managers, we would be crawling all over it, but we're not. So maybe I'm wrong, maybe this is just a 'fad', as I heard it referred as the other day. But that's not the message I'm picking up from involved groups within government – who crying out for professional risk management participation.

Maybe we just need to know more about it. With this in mind I have collated articles from Health and Safety practitioners, lawyers, professional bodies and insurers to provide some more context around what this risk based legislation means and where we, as risk managers, fit in with it.

Enjoy.

Chairman's Corner

Geraint Bermingham

Chairman, RiskNZ

Improving the knowledge and practice of risk management in New Zealand

chair@risknz.org.nz

As you will see, this issue of RiskPost is focused on Health and Safety - a topic that all risk managers will be aware of even if their own role responsibilities do not include any aspect of safety management - if only as Boards are now very aware of. I recently was part of a presentation series in various centres across South Island and was pleased to note that the lexicon from on the stage and from the floor had notably changed from simply talking about 'hazards', to one of 'risk'. This is heartening as it suggests that the level of understanding of the concept of 'risk' is improving across the board.

However, in my mind it does also mean that the conversation on safety will have to become more sophisticated and which in turn will place more demands on anyone in formal risk management positions. In particular demands on an ability to communicate risk management concepts and theory as well as advise on its practical application. Although it is useful that we have an established and highly developed risk standard to base this advice on, it is also of note that, despite much talk about risk, how little if any reference has been made to this international and local standard in the long run up to the development of the new legislation, regulations and other official guidance.

In my mind, I sense that the near future is one in which many risk managers will have to be fully engaged in, but also one in which driving formal disciplined and hence a fully professional approach may require considerable professional skill if the frameworks and processes that will be developed are to be fully effective in terms of managing risk in its true sense.

Separately, I will also take this opportunity to mention again the recent RiskNZ Development Day and the Risk Awards.

By any measure the day was an outstanding success while our 2015 Awards of Excellence has generated significant media interest locally and internationally.

My congratulations go to:

- Nick Mulcahy - Young / Emerging Risk Practitioner of the Year
- Global Film Solutions (Julian Grimmond and Frith O'Hagan) - Excellence in Managing Risk Across Boundaries, and
- Beca, Higgins Construction and NZTA - Excellence in Building Risk Management Capability.

As with the inaugural awards last year, the Awards Committee maintained the intent that all award categories be judged against demonstrated 'excellence' - this means that the three award winners this year have been shown to have met a very high bar - not only has it been demonstrated that they are performing effectively - but that that performance does clearly exceed that typical of their peers. It has always been and remains the RiskNZ Board's view that setting and maintaining a high bar is essential to ensure RiskNZ awards have standing and do help drive the continuous development and excellence in risk management in New Zealand, and in doing so help us reach for the vision that "...New Zealand prospers because risk is well managed".

With regard to the Development Day, this was a first of its kind for RiskNZ and was developed in response to member requests for additional professional development and networking opportunities, the development day was - by all accounts was very successful. I do recommend that you view the presentations and videos of the speakers, available on the RiskNZ web site to all members.

Executive Officer's Musings...

Tim Jago

Executive Officer, RiskNZ

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As this edition of RiskPost is published I am marking two years since joining what was then the New Zealand Society for Risk Management. When asked latterly what stands out most about the two year period I inevitably say its 'the journey' then go on to explain the desire of the Board to reposition the organisation so that it has more credibility, more influence, and more relevance – and my participation in the journey that has ensued.

We are now part of a substantially different organisation, insomuch that we are now proudly RiskNZ and we view and promote ourselves as a professional body, which in my opinion is a big progression from 'the society' as we were inclined to mis-name the entity, and which also typified much about how we behaved as an organisation.

We are a much more contemporary organisation. We now proudly profess to be the peak sector and professional body in New Zealand bringing together those people and organisations managing risk. This strikes me as being a much bolder, encompassing purpose than 'to promote the knowledge and practice of risk management' that it displaces.

Our vision today is much easier to articulate, and relate to. New Zealand prospers because risk is well managed. This statement has a strong externality and currency to it, and resonates loudly with the many diverse organisations we are now in touch with.

Something remains unchanged however, as life member and founding chair Roger Estall commented to me recently, and that is the objectives of the organisation. Regardless of the exact words used, the intent has been constant since the organisation was founded: RiskNZ exists to promote knowledge of contemporary risk management best practice, and to drive improvement in the practice of risk management, with a strong New Zealand contextual setting.

The new brand and the advent of fresh descriptors are however only a small part of the journey. Actually repositioning the organisation to deliver increased relevance and value to members as well as to the increased set of other organisations we increasingly deal with has been a larger part of the journey. I look back over the two years and note with more than a tinge of satisfaction that RiskNZ is doing many things differently and by most accounts better. It's worth sharing some of the evolutionary gains and milestones:

- The elected leadership team now operate as a Management Board rather than a management committee.
- Annual business plans are now more specific about intended outcomes, and timelines.
- The board members now individually carry portfolio accountabilities.
- There is increased delivery of events and services to members, and more importantly, increased uptake of what we are delivering.
- Plans and priorities increasingly reflect the extant and emerging needs of the membership. We are more agile.
- The organisation is responsive to opportunity, not shackled by convention.

- We are an increasingly web and digitally enabled organisation.
- As a higher profile, more industrious and relevant organisation we are attracting interest from sponsors.
- We are increasingly being approached by other sectors and agencies to provide specialist speakers.
- We have dropped the stiff formality that surrounded our dealings with kindred organisations, and seeing the benefits of collaboration flow in to our work and future plans.

The journey is not yet over. The Board met on 12 November to take a fresh look at the 12-18 months ahead. Plans see RiskNZ implementing a structured CPD programme, consulting the membership on an accreditation framework and introduction of post-nominals, scoping of further development days and a 2016 or 2017 conference. Preliminary work on what an updated constitution might look like is also about to commence. 2016 promises to be another exciting year in the journey to cement RiskNZ as the peak sector and professional body in New Zealand bringing together those people and organisations managing risk.

Continuing the journey theme, I travelled in September to Pakistan, then London and New York. In Pakistan I met with senior leaders in the NGO/ NFP space who are endeavouring to combat the exceedingly high death toll resulting from their unfamiliarity with, and ill-equipped activities in, aquatic environments, which range from expansive city and outlying beaches, to seasonal monsoon floods inundating Karachi to the enormous travelling floods that start in the highlands and then flow hundreds of kilometres seaward over many weeks. There is a lifetimes' work ahead to map and mitigate the risk, and it's very sobering to compare their challenge against the work in New Zealand that Nick Mulcahy was recognised for at our recent Awards of Excellence.

In London I had discussions with our colleagues at the IRM. They too have been on a bit of a journey over the past year, to better align to the needs and aspirations of members. Strengthening their CPD capability has been a key focus, and the implications are all good for RiskNZ as we agreed to some broad principles around sharing their resources. I also met with an ex-pat Kiwi who is now a senior risk manager for London Transport, and his primary piece of work is the planned 14billion Euro upgrade of the suburban train fleet. It makes Auckland's \$2billion inner city train loop seem quite tame by comparison.

And in New York I met with PwC's New York Manager for Risk and Compliance Systems and Analytics. The breadth and complexity of client work is simply staggering, as are the financial stakes involved in some work.

If nothing else, we have some interesting potential future guest speakers!

The New Health and Safety at Work Act 2015 – Will a greater focus on risk deliver a stronger Health and Safety culture?

Steve Wragg

*Senior Associate, Employment and Health & Safety Team,
Kensington Swan*



The Health and Safety at Work Act 2015 brings in a raft of changes to New Zealand's workplace Health and Safety regime designed to help achieve the Government's goal of at least a 25 per cent reduction in fatalities and serious injuries in the workplace by 2020.

The Act has had a long and tortuous passage through Parliament, with accusations along the way of back-bench revolts, secret deals with the dairy industry and last minute changes to make it tougher for some workers to have their voices heard on Health and Safety matters. However, the reforms have finally made it through to law and will come into force on 4 April 2016. At the same time, a series of new Health and Safety regulations dealing with, amongst other things, general risk and workplace management, asbestos and worker participation and engagement will also come into effect.

Despite the suggestion that the government had done a last minute deal with the owners of New Zealand's worm farms, the key objectives of the new law have remained consistent throughout. These include bringing about behavioural and cultural changes in approaches to Health and Safety in New Zealand, and shifting the focus from identifying and controlling hazards to assessing and managing Health and Safety risk.

A statutory obligation to work together – a move towards sharing risk?

The HSW Act will impose an obligation on a new primary duty holder, being a person conducting a business or undertaking ('PCBU'), to ensure, so far as is reasonably practicable, the Health and Safety of workers and other people affected by the work of the business or undertaking. The term PCBU is defined broadly to include anyone that conducts a business or undertaking, whether alone or with others. It therefore includes companies as well as independent contractors running their own business.

There will be additional obligations on 'workers' and 'other persons' at a workplace, to take 'reasonable care' in relation to Health and Safety. 'Officers', including company directors and those whose roles allow them to exercise a significant influence over the management of the business or undertaking, will have a separate 'due diligence' obligation. With the exception of 'officers' (which is a topic for another article), these new duty holders are broadly a re-categorisation of duty holders under the existing legislation.

However, there is an additional new obligation, under which PCBUs that have a Health and Safety duty in relation to the same matter must, so far as is reasonably practicable, consult, co-operate with, and co-ordinate activities with all other PCBUs who have a duty in relation to that same matter (for shorthand, a co-ordination obligation). If prosecuted, a failure to comply with this co-ordination obligation may result in the PCBU being fined up to \$100,000, in addition to any other penalties (including other fines) that might be imposed against the PCBU for other breaches of the Act.

As well, a duty imposed on a person by or under the Act will require the person to eliminate risks to Health and Safety, so far as is reasonably practicable or, if not reasonably practicable to eliminate those risks, to minimise the risks so far as is reasonably practicable. This obligation to manage Health and Safety risks is limited to the extent the person could reasonably be expected to have the ability to influence and control the matter to which the risks relate.

This means that each PCBU is going to have to carry out careful risk assessments in relation to its work activities. Where those activities coincide with the activities of other PCBUs, to comply with its co-ordination obligation, the PCBU may well be obliged to share the results of those risk assessments with the other PCBUs in order to comply with the co-ordination obligation.

As the duties are ongoing, the PCBUs will also need to monitor their own and potentially even each other's activities, to ensure everyone is doing what they agreed.

An important change with the new PCBU concept is that even where two parties do not have a direct contractual relationship, one or both will still have a duty to ensure the Health and Safety of each other's workers, where those workers' activities are influenced or directed by the PCBU concerned. Again, however, PCBUs are only required to discharge their duties to the extent to which they have the ability to influence and control the matter.

A move to a stronger safety culture?

Upon the HSW Act coming into force, it is conceivable that a PCBU may be reluctant to share information on its own perceived or assessed risks with other PCBUs. The PCBU may view this voluntary disclosure of risk information as exposing them more readily to liability should some harm occur in future. As well, in some sectors where PCBUs working on a project may also be competitors in the market (for example, the construction industry where several contracting companies may be involved at any one time) a PCBU may feel that disclosing information on risks to another PCBU in that market may adversely impact on its competitiveness in future.

However, it is expected that those fears will dissipate in time. This may be as a result of proactive enforcement by WorkSafe New Zealand where it considers there has been a failure to comply with the co-ordination obligation. Alternatively, and more positively, it may be through PCBUs beginning to see that communicating with each other about the Health and Safety risks they have identified, and the measures that each proposes to take to control those risks, will result in the work environment being a safer place for everyone.

Moving to a Health & Safety risk-based regime

Craig Smith

Chair, HASANZ



Too many people are hurt, killed or get sick at work in New Zealand.

This presents a serious challenge to risk managers who must address Health and Safety within their wide scope of work, given the due diligence requirements of the Health and Safety at Work Act which comes into force in April 2016.

Over the past 20 years, there has been a strong focus on hazard control in the workplace. The common result is a hazard register with likelihood, consequences and controls applied to each. While this is important, it frequently fails to look at the broader picture of what's driving risk in the business. With the advent of the Health and Safety at Work Act we are moving towards a much more effective risk-based approach.

The Royal Commission into the Pike River disaster and the subsequent Independent Taskforce on Workplace Health and Safety highlighted the need to take a risk-based approach to managing workplace Health and Safety. This is clearly articulated in the new legislation which sets the expectation that those who create risk are responsible for managing that risk.

Craig Smith led the Taskforce Secretariat and is Independent Chair of the Health and Safety Association of New Zealand – the national umbrella organisation for Health and Safety professions established just over a year ago. He explains what the risk-based approach means for risk managers.

“Rather than seeing a hazard in isolation, it requires us to think about everything that's going on in the workplace and to consider the system failures and attitudes and behaviours that lead to harmful incidents and unhealthy working environments”, says Craig.

“It's not enough to try and control hazards after they appear, it's also vital to think about lead indicators – all of the factors that give rise to hazards, for example, workplace design, product design, workplace capability including leadership and staff recruitment and training, due diligence and effective systems and processes. There need to be sound workplace practices, on the job, every day.”

The Act's due diligence requirements provide for greater involvement by risk managers in Health and Safety issues. Risk managers are well placed to assist their organisation and drive change because they have visibility of risks across the whole business.

Craig Smith says every workplace should be able to identify its critical risks, with the involvement of all staff, and what you need to do on site to manage those risks.

“Take company cars,” he says. “We all know there's a risk of being injured or killed in a motor vehicle so the workplace has to think about how to manage that risk and put measures in place. These could include only buying cars with a 5-star Ancap safety rating, ensuring all drivers do a defensive driving course and ensuring company policies are clear on use and obeying the road code.

“Moving to a risk-based regime is a task that risk managers should not do on their own, but alongside workers, Health and Safety professionals, unions, business leaders and relevant government agencies. Everyone has a part to play,” says Craig.

“Sometimes you may need to seek expert advice on some aspect of Health and Safety related to your business. HASANZ has a role to play in giving businesses better access to quality advice from competent Health and Safety professionals. Our membership includes a [diverse range of Health and Safety organisations](#) that are committed to lifting professional standards across the Health and Safety sector to improve Health and Safety in workplaces.”

A major HASANZ initiative is the development of a register of qualified, Health and Safety professionals. Risk managers will be able to go online and find a specialist they can rely on that's appropriate for their business. While the register won't be ready until mid-2016, HASANZ has developed a handy checklist you can use in the meantime to help choose a qualified Health and Safety professional. See *HASANZ 5 quick questions* box.

HASANZ has also produced a partner resource, [Choosing a workplace Health and Safety advisor](#), which expands on these questions.

For more information go to www.hasanz.org.nz

HASANZ 5 QUICK QUESTIONS

HASANZ recommends checking if workplace Health and Safety professionals are right for the job by asking these five quick questions:

- 1. Which professional association do you belong to – can you confirm this?**
- 2. What qualifications and/or certification do you have?**
- 3. What relevant skills and experience do you have for this job?**
- 4. Can you give me examples of similar work you have done recently?**
- 5. Are you happy for us to contact your clients about your work for them?**

Insurance risks in new health & safety legislation

John Sloan

Sloan Risk Management Services

John Sloan, the principal of Sloan Risk Management Services, has been a member of Risk NZ from its inception.

The proposed fines range from \$100,000 to \$3,000,000 and/or jail time. So, for egregious conduct, company directors or executives could face these penalties. They will find neither company indemnity nor insurance will pay, and insurers will not do jail time for them.

Insurance is often the last thing organisations and directors think of when reviewing compliance and corporate governance. And when something really goes wrong, those in the legal firing line bleat: "Aren't we insured against this sort of thing and, if not, why not?"

They rarely realise that, even when the Health & Safety Act was beefed up years ago, it was decreed fines and penalties were not insurable as this was deemed against the public interest; after all, what financial deterrent was there if insurance covered the costs?

However insurance was available for legal defence costs involved plus any reparations awarded. This cover was provided by what are termed Statutory Liability policies which included a number of non-criminal acts in the coverage such as the Resource Management Act and Building Act to name but two. The policy sum insured was for a limit any one claim (such as \$1m) subject to an upper annual limit often pegged at the same amount.

Initially not many prosecutions were made triggering this area of insurance but some serious incidents did occur resulting in costly fines which may have had the legal costs and reparations (if any awarded) insured.

Effect of ACC

From its inception the no fault the Accident Compensation Act has barred common law claims for accidental death or bodily injury howsoever caused even if gross negligence is the cause. While legal action could be taken against any negligent person or entity claims for damages were ruled out.

In very limited cases attempts were made for punitive or exemplary damages and business public liability policies invariably include this cover in the Policies.

Less Forgiving Legislation Now a Reality

Following the Cave Creek Mining disaster plus a series of serious accidents in the construction and forestry industries the Government decided to revise the Health and Safety legislation to tighten up and expand the penalties and apply "teeth" to reinforce the need for safety.

The latest issue of Industrial Safety News contained the following chart of the fines and penalties to apply when the new Health and Safety at Work Act is applied next year, acknowledgement is made to that publication.

			Max. prison term	Max. fine
Offence of reckless conduct in respect of a health and safety duty (clause 42)	A person who has a health and safety duty, without reasonable excuse, engages in conduct that exposes a person to a risk of death or serious injury or illness, and the person is reckless as to the risk	Individual (e.g. a worker)	5 years and/or	\$300,000
		Officer of a PCBU or an individual who is a PCBU (e.g. self-employed)	5 years and/or	\$600,000
		Body Corporate (e.g. a company)	-	\$3 million
Offence of failing to comply with a health and safety duty that exposes individual to risk of death or serious injury or illness (clause 43)	A person who has a health and safety duty fails to comply with the duty and that failure exposes a person to risk of death or serious injury or illness	Individual (e.g. a worker)	-	\$150,000
		Officer of a PCBU or an individual who is a PCBU (e.g. self-employed)	-	\$300,000
		Body Corporate (e.g. a company)	-	\$1.5 million
Offence of failing to comply with a health and safety duty (clause 44)	A person that has a health and safety duty fails to comply with that duty	Individual (e.g. a worker)	-	\$50,000
		Officer of a PCBU or an individual who is a PCBU (e.g. self-employed)	-	\$100,000
		Body Corporate (e.g. a company)	-	\$500,000

Insurances Available for Health and Safety Fines and Costs

This will continue to be against legal costs alone and organisations will need to get confirmation from their insurers or brokers that such an insurance is in place. To reiterate; commercial insurance against the fines/penalties is illegal as is any company indemnity to directors.

A public liability policy would not provide cover and neither would any directors and officers policy.

Not-for-profit entities are in exactly the same boat and equally devoid of insurance protection apart from legal costs, if they have such a cover in place.

The same factors apply to overseas companies who may think a global liability insurance policy may apply to them here in New Zealand. But local laws would prevail and such policies would probably exclude illegal claims anyway.

Incidentally, New Zealand companies operating overseas need to realise that most countries do not have our “no fault” type accident compensation so they need their public liability insurances arranged with precision with substantial limits in case they or their employees get sued.

Additional Insurance for Work Accidents

Many organisations rely on the ACC to provide protection for at work accidents causing death or bodily injury. The main coverage is for weekly compensation, lump sums for serious injuries and medical costs. However many entities arrange additional personal accident insurances to supplement

ACC particularly for accidental death or serious bodily injury whether at work in a motor accident and non- work accidents.

Such policies can be for fixed amounts per person, or for senior employees, a multiple of their salary. They act as an employee benefit and can be costly. If they are part of an employment package such policies can be hard to cancel if companies are looking at reducing insurance costs.

Some companies include directors in such policies. Complications can arise with FBT and just who the policy proceeds belong to.

When employees or directors travel overseas on business most organisations have an automatic travel insurance in place which includes a personal accident section and most importantly, substantial cover for medical expenses.

ACC and Self-Insurance

For many years ACC has provided a facility to “risk share” whereby organisations can effectively self – insure a pre agreed component of ACC entitlements. This facility rewards reduced claims incidence and the increases Health and Safety penalties to be applied next year will be an added incentive to reduce at work accidents.

Conclusion

The operational impact and cost implications of the new legislation will concern all employers. Although the increased fines and penalties are not insurable they should still review their entire suite of liability and personal accident insurances to ensure that appropriate cover is in place just in case they or their employees contravene the legislation and an imposing an absolute punitive and costly liability arrives on their desk.

Implications for engineering organisations post the Pike-River Disaster

Dirk Pons,

Dirk Pons (PhD, CPEng) is a Senior Lecturer at the University of Canterbury. His research interests include risk, reliability, human error, safety, along with design, manufacturing engineering, engineering management, and professional practice. He is a founder member of the New Zealand Society of Safety Engineering, and was instrumental in contributing to the development of a well-received course on 'Safety engineering' for the Institution of Professional Engineers New Zealand (IPENZ). He was a member of the standards committee that created the AS/NZS risk management standard. He serves on the Standards and Accreditation Board of IPENZ

While the final sequences of an accident always involve physics, the root causes are often in the realm of behaviour, especially the actions taken by managers and workers.

In the case of the Pike River Mine the physical accident involved an explosion of methane gas, which is naturally liberated from coal. There was no shortage of possible ignition sources, ranging from worker violations (cell phones, watches), diesel engines, electrical arcing, and power electronics. Some poor engineering decisions were made regarding electrical systems in particular. However a small methane explosion could have been survivable, but not the series of large explosions that actually occurred. Consequently part of the problem was excessive methane in the mine. In turn this was caused by the mismatch between the increased methane caused by accelerated coal extraction (made necessary by cash-flow problems), and insufficient withdrawal of methane by the fan ventilation system. The problems with the ventilation system included imprudent engineering system design (placement of fan inside the mine), insufficient ventilation capacity, and management prioritisation of production over solving ventilation problems.

Fundamentally the company had insufficient funds to set up a venture of that complexity while still managing the risks. It is understandable that firms do not have perfect knowledge when they start a venture, but they also do need to have the courage to stop when new information becomes available that shows the risks to be greater than the benefits.

It was not possible to secure a conviction against any board directors or executives of the mining company. Basically they all claimed they were not aware of the hazards. The law was subsequently changed to close this defence, by imposing new duties. Now an organisation has a **Primary duty of care** to take care, as far as is reasonably practicable, of any people it affects: its workers, all the workers of any subcontractors (workers of other organisations that do work on the site), trainees, visitors, and the public at large. This responsibility extends to providing a safe work environment, having safe equipment and facilities, having protocols, storing materials safely, training workers, and monitoring the health of workers. In particular, note that the duty extends to all workers, whoever employs them, including those of sub-contractors.

In the past the engineering and technical staff were primarily responsible for the locus of action for hazard management. They were expected to apply the risk assessment methodology to identify hazards, rank them, and apply treatment. Those treatments were formulated in terms of a hierarchy of hazard control: eliminate, isolate, minimise. That work stream survives into the new Act, except that it only refers to elimination and minimisation (the difference is not significant).

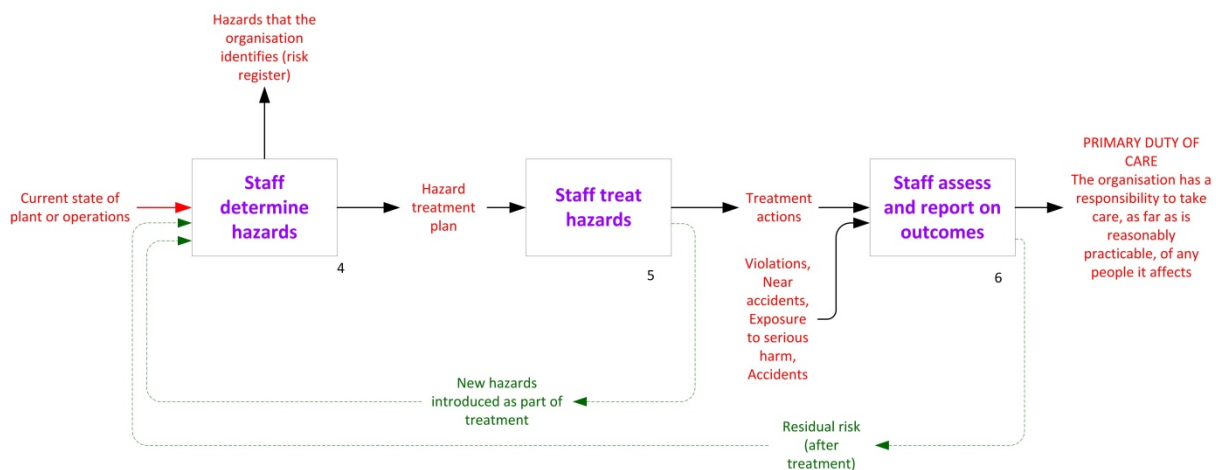


Image 1: TECHNICAL WORK STREAM: The typical organisational approach to hazards is based on technical staff determining the hazards, treating them, and assessing the outcomes. The process needs to be robust enough to detect when new hazards are introduced as part of treatment, and to assess the residual risk after treatment. Image D Pons.

However a major change occurred in the additional work stream required of all directors and executives ('officers'). The **Duty of Due Diligence** requires officers to make themselves informed of hazards and ensure that the organisation is dealing with them effectively. Ignorance of the hazards faced by workers is no longer a defence, but is instead an offence in its own right. Nor can officers delegate the duty. Even though they can task others in the organisation to implement the Health and Safety treatments, the officers still retain responsibility for the outcomes. The act effectively elevates Health and Safety considerations to the same level as the strategic and fiduciary duties that already apply to boards.

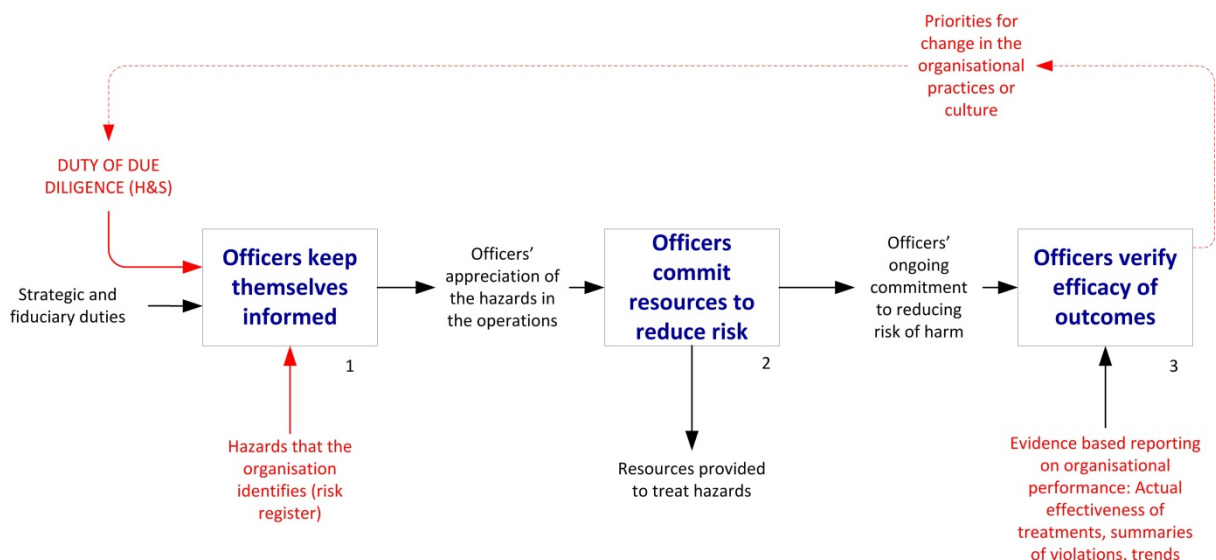


Image 2: OFFICERS' WORK STREAM: Directors and Executives are now required to keep themselves informed about hazards in their organisation, show ongoing commitment to reduction of harm, and apply diligence to verify the state of the organisation's processes. Image D Pons.

As a consequence prudent directors and executives of technology-based organisations will need to assess their current practices, and make changes to their systems to remedy deficiencies. They will

need systems to collect evidence-based statistics on organisational performance: actual effectiveness of treatments, summaries of violations, trends in safety incidents. Officers will need to take note of these reports, and exert personal agency to fix the issues and change the organisational practices and culture where necessary.

Another important change is that the new Act does not preserve the category of 'serious harm'. Instead the new Act defines a 'notifiable incident' as merely the *exposure* to serious harm, *whether or not serious harm actually occurs*. As the term suggests, such near accidents must now be notified to the Regulator, and can arise in penalties. In the old way of thinking a 'near-miss' did not have much consequence under law, and thus did not always encourage people to preventative agency. Now with the new law it would be prudent for organisations to learn to articulate these as 'near-accidents'. It may require a culture change to achieve this shift.

Were a similar accident to occur now, the directors and executives would be exposed to criminal charges for neglecting their duties in multiple areas. The diagram illustrates some of the common weaknesses: incomplete hazard assessments, under-resourced treatment plans, processes that are overwhelmed by the number of incidents, neglect of introduced and residual risks, poor culture towards violations, ad-hoc or lack of reporting of safety statistics to the board. These are known barriers to effective risk management at the engineering level. Organisations absolutely are expected to be competent at these processes, since the risk assessment process is well-established.

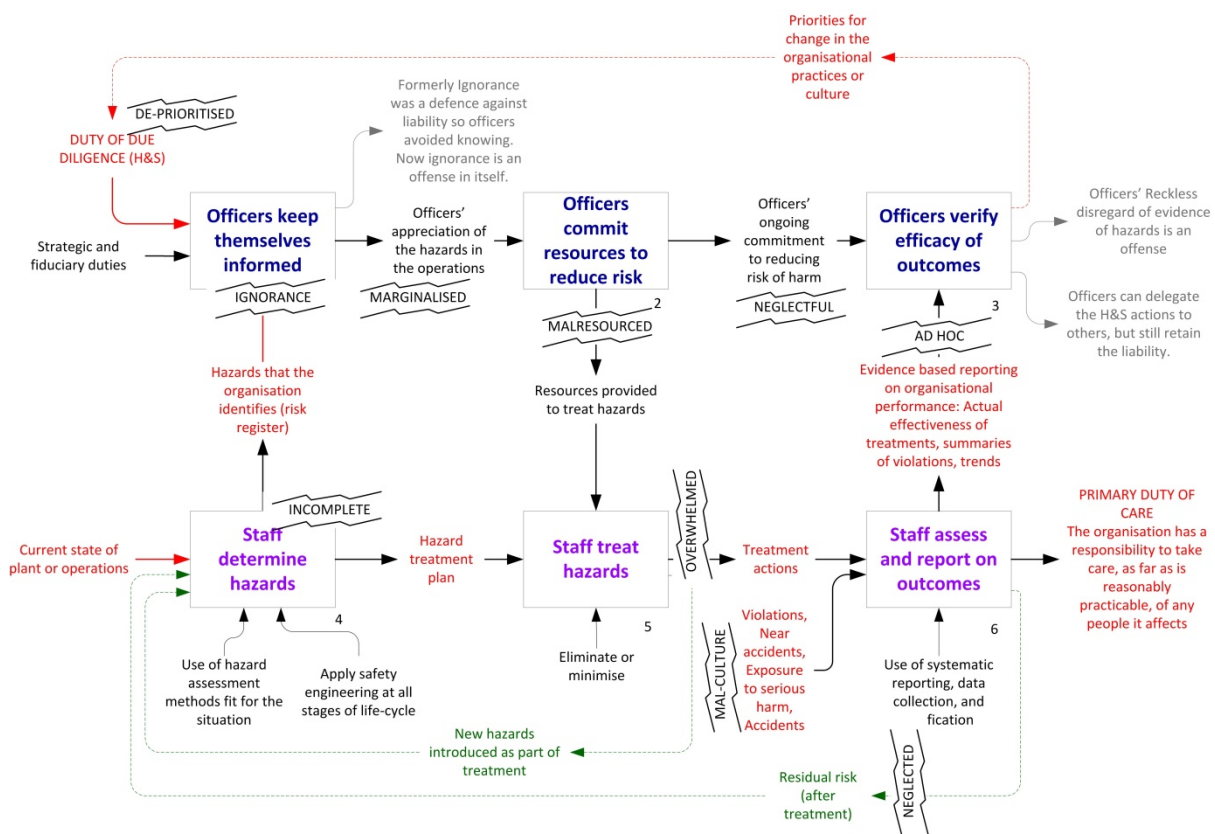


Image 3: NEW EXPECTATIONS: If a similar accident were to occur now, the directors and executives ('Officers') would be guilty on multiple counts, for being negligent regarding their 'duty of due diligence' and for failing to ensure that the organisation met its 'primary duty of care'. Image D Pons.

However the *new* risk for organisations is that the Act deliberately criminalises deficiencies in judgement at the Board level. The diagram shows the types of deficiencies that could result in liability under the Act. This is a new concept and for some organisations will require a change in attitudes and

priorities of directors and executives. The risk is real: the consequences are serious financial and criminal penalties, and the likelihood of these is high. In summary, organisations will need to strengthen the integrity of their risk management processes at engineering and operational levels, and also at Board level.

RiskNZ news and information**Management Committee and Officers**

The management committee and officers of RiskNZ are:

Chair: Geraint Bermingham **Secretary:** Ross Wells

Executive Officer: Tim Jago **Treasurer:** Tony Yuile

Administration Officer: Rachel Allan

Committee members: Nigel Toms, Brian Potter, Loata Stewart, Hilary Walton, Sally Pulley, Sue-Anne Lee, Sharyn Bramwell

RiskNZ's Website

RiskNZ's website is located at www.risknz.org.nz.

As part of this year's business plan initiatives, our website has been upgraded. Although we have made every endeavour to ensure all aspects of the website are functioning as they should, if you do notice any broken links or other gremlins, please notify the Administration Officer at adminofficer@risknz.org.nz.

The website is your RiskNZ's shop window, and a major risk management information resource, so please take the opportunity to browse the new site. We welcome your feedback on it.

As a financial member of RiskNZ you are entitled to access the members-only section of the website. For this you need a user name and a password. If for any reason you do not have the password or have forgotten it, please contact the Administration Officer.

New Members

RiskNZ welcomes the following new Members. Contact details are included in the Members' section of the Website.

Individual Members

John Denize, Occupational Health and Safety Adviser, Sands Management Systems

Jamie Dale, Quality Assurance Manager, Taupo District Council

Erica Jenkin, Group GM Risk, SkyCity Entertainment Group

Corporate Members

Bay of Plenty Regional Council

Beca Limited

Become a Member

Membership of RiskNZ is open to any person of good character or an organisation engaged in or with an interest in the practice, study, teaching or application of risk management. RiskNZ is keen to attract a wide range of Individual and Corporate members representing all the different aspects of risk management knowledge and practice. This includes those with direct involvement in the field and those with a personal or community interest.

Apply online at <http://www.risknz.org.nz/membership/how-to-join/>

Social networking –
Follow us on



<https://nz.linkedin.com/groups/RiskNZ-3945531/about>



<http://www.facebook.com/pages/The-New-Zealand-Society-for-Risk-Management/178021535579772>



<http://twitter.com/nzrisksociety>

Information for Contributors

Next Issue	The next edition will be published in March 2016. RiskNZ strongly encourages all members to contribute items for this newsletter on practices, developments or issues in your particular area of risk management. Contributions for the next issue should be sent to editor@risknz.org.nz and received by 29 February 2016. Members are welcome to submit material for the following sections:
Articles	Articles are welcome at any time; please contact editor@risknz.org.nz if you wish to propose an article.
Developments in risk management and new information sources	Significant new web page content including online articles and major reports available on the web. New publications (including brief descriptions, and where possible website links to further information). This will include new journals in risk management, new books, where they are available, etc.
Activities, services and situations vacant	<i>RiskPost</i> provides a membership service for the display of notices and advertisements, if aligned with RiskNZ's objectives. Notices may describe an activity or service, or advertise a risk management vacancy. Notices must not exceed 150 words of plain text, inclusive of all contact and reference details..

For further details on RiskNZ's submissions and advertising, please contact the Administration Officer: adminofficer@risknz.org.nz,

RiskNZ,
PO Box 5890,
Wellington 6145

Links

This section in RiskPost provides our members with useful links to websites and LinkedIn discussion sites. These links hold a lot of information that our members should find useful to enhance their knowledge in Risk Management and related areas. We welcome comment from our members on the usefulness of these links and suggestions for others sites they found useful. Please send feedback or links to editor@risknz.org.nz

Consumer Affairs – Product Safety
<http://www.consumeraffairs.govt.nz/for-business/compliance/product-safety>

ISO 10377:2013 Consumer Product Safety — Guidelines for suppliers and ISO 10393:2013 Consumer product recall – Guidelines for suppliers.

http://www.iso.org/iso/home/news_index/news_archive/news.htm?refid=Ref1726

Internet sites:

<http://globalriskcommunity.com/>

<http://www.valuebasedmanagement.net/>

<http://www.knowledgeleader.com/>

<http://poole.ncsu.edu/erm/>

Groups within LinkedIn:

ComplianceX

<http://www.linkedin.com/groups?gid=865117>

Conference Board of Canada ERM

<http://www.linkedin.com/groups?gid=2561072>

Enterprise Risk Management

http://www.linkedin.com/groups/Enterprise-Risk-Management-82279?trk=myg_ugrp_ovr

Enterprise Risk Management Association

http://www.linkedin.com/groups?gid=89308&trk=myg_ugrp_ovr

Governance Risk & Compliance

http://www.linkedin.com/groups?gid=95089&trk=myg_ugrp_ovr

ISO 31000 – Risk Management

http://www.linkedin.com/groups/ISO-31000-Risk-Management-1958423?trk=myg_ugrp_ovr

ISO 31000 Risk Management Standard

http://www.linkedin.com/groups/ISO-31000-Risk-Management-Standard-1834592?trk=myg_ugrp_ovr

Research & Benchmarking Risk Appetite Practices

http://www.linkedin.com/groups/Research-Benchmarking-Risk-Appetite-Practices-2401677?trk=myg_ugrp_ovr

Risk Managers

http://www.linkedin.com/groups/Risk-Managers-65207?trk=myg_ugrp_ovr