

Managing health and safety risks

A summary for IoD members of the Good Governance Practices Guideline



Introduction

This document is a condensed summary of the *Good Governance Practices Guideline for Managing Health and Safety Risks* which was produced by the Institute of Directors (IoD) and the Ministry of Business, Innovation and Employment (MBIE). The comprehensive guideline which includes diagnostic questions and actions for directors is available from the IoD – www.iod.org.nz and MBIE – www.mbie.govt.nz

Each week one to two New Zealanders are killed while at work. In addition, there are an estimated 600 to 900 deaths each year from occupational diseases such as asbestosis. The financial cost is estimated to be \$3.5 billion or more each year. The statistics do not begin to describe the impact on those who have been harmed, their families, friends and colleagues.

Directors and managers both have major roles to play in addressing these statistics. The focus of directors should be on determining the organisation's purpose, developing an effective governance culture, holding management to account and ensuring effective compliance¹. Directors work with management to develop the organisation's strategy and business plans which are then implemented by management.

Health and safety governance is a fundamental part of an organisation's overall risk management function which is a key responsibility of directors. Failure to manage health and safety risk effectively has both human and business costs. The price of failure can be the damaged lives of workers, their families and friends as well as direct financial costs, damaged reputations and the risk of legal prosecution.

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An organisation's duty to provide a safe and healthy work environment extends further than its employees. Legislation in New Zealand extends that duty to all those who could be affected by the activities of the organisation such as contractors, visitors and customers. That duty of care is the same for all directors regardless of the size of the organisation.

A positive and robust health and safety culture that begins at the board table and spreads throughout the organisation adds significant value, including:

- enhanced standing among potential workers, customers, suppliers, partners and investors as a result of a good reputation for a commitment to health and safety
- workers participating positively in other aspects of the organisation. A good organisational culture spreads wider than health and safety
- decreased worker absence and turnover. Engaged workers are more productive workers
- reduced business costs, for example a reduction in ACC levies as a result of improved health and safety performance and outcomes
- potentially increased economic returns. A report from the International Social Security Association found a return on prevention ratio of 2.2².

“The board and directors are best placed to ensure that the company effectively manages health and safety. They should provide the necessary leadership and are responsible for the major decisions that must influence health and safety: the strategic direction, securing and allocating resources and ensuring the company has appropriate people, systems and equipment.”

**ROYAL COMMISSION ON THE PIKE RIVER
COAL MINE TRAGEDY**

This summary document aims to provide directors with an overview of how they can influence health and safety performance in their organisations. While the principles discussed in this summary apply to all directors it is intended to have particular application to directors of medium to large sized organisations (20 or more employees).

This summary is neither a policy statement or a statutory document. Where the document intends a good practice imperative, rather than a legal one, the word 'should' is used.

¹ *The Four Pillars of Governance Best Practice*; Institute of Directors in New Zealand, Wellington, 2012.

² *The Return on Prevention: Calculating the costs and benefits of investments in occupational safety and health in companies*; International Social Security Association (ISSA), Geneva, 2011.

Essential principles of health and safety governance

Leadership

It is the role of directors to provide leadership that sets the direction for health and safety management. Directors should:

- ensure there is an active commitment and consistent behaviour from the board that is aligned with the organisation's values, goals and beliefs
- be aware of the organisation's hazards and risks and have an understanding of hazard control methods and systems
- understand how to measure health and safety performance so they can understand whether systems are being implemented effectively
- set an example and engage with managers and workers on health and safety
- hold management to account.

Worker participation

Worker participation is an important part of health and safety risk management not only because it is a legal requirement but because it has proven to be highly effective.

- Workers should be encouraged to contribute by raising issues, generating ideas, and participating in system development, implementation, monitoring and review.
- Directors should hold management to account to ensure workers are involved.

Legislative compliance

An organisation's officers and directors must always comply with relevant laws and regulations and they must ensure their organisation's compliance. This requires that directors keep informed and up-to-date with legislative changes.

The overarching legislation that governs health and safety practice in New Zealand is the *Health and Safety in Employment Act 1992 (HSE Act)*. This is supported by other key legislation such as the *Accident Compensation Act 2001* and the *Hazardous Substances and New Organisms Act 1996 (HSNO)*. The HSE Act also has a number of regulations and approved codes of practice. A summary of the HSE Act titled *A Guide to the Health and Safety in Employment Act 1992* is available from MBIE.

Under the HSE Act the primary responsibility is placed on the employer who has a general duty to provide a safe and healthy work environment. The duty extends to all persons who may be affected by the activities of the organisation including, employees, contractors, public, visitors and customers and to the organisations activities as a supplier to other organisations.

Directors can be held personally liable for an organisation's failure to comply with the HSE Act if they are held to have “..directed, authorised, assented to, acquiesced in, or participated in,..”³ a failure to comply.

Pike River Coal Mine tragedy

An explosion at the Pike River Mine on 19 November 2010 caused the deaths of 29 men. In its final report into the tragedy the Royal Commission reached the following conclusions about corporate governance at the mine:

- **the board's focus on meeting production targets set the tone** for executive managers and their subordinates
- **the board needed to satisfy itself that executive managers were ensuring workers were being protected.** The board needed to have a company-wide risk framework and to keep its eye firmly on health and safety risks. It should have ensured that good risk assessment processes were operating throughout the company
- **an alert board would have ensured that these things had been done and done properly.** It would have familiarised itself with good health and safety management systems. It would have regularly commissioned independent audit and advice. **It would have held management strictly and continuously to account**
- **the Chairman's general attitude was that things were under control unless told otherwise.** This was not in accordance with good governance responsibilities. Coupled with the approach taken by executive managers this attitude exposed the workers to health and safety risks.

The Pike River Mine case provides a sobering example of how ineffective governance can contribute to catastrophic results.

“The main conclusion that emerges from our findings overall is that worker representation and consultation in the UK have a significant role to play in improving health and safety at work. They have the potential to raise health and safety awareness amongst both workers and managers, effect improvement in arrangements for managing health and safety, improve the practical implementation of these arrangements, and contribute to improved health and safety performance. Most importantly they represent means by which workers' voices can be heard and acted upon to the benefit of those that experience the risks of the production process.”

DAVID WALTERS ET AL (2005)

CASE STUDY

Progressive Enterprises

With 18,500 workers across almost 200 locations and 135 million people visiting their stores each year, Progressive Enterprises have a diverse and significant risk profile. While they believed they were putting safety first it was not being reflected in their performance with an LTIFR of over 20. In 2009 they started thinking more deeply about what safety actually meant and started to really engage workers.

In a drive to build credibility and engage workers the Countdown to Zero programme was launched. As part of the programme additional equipment was purchased to reduce specific risks such as injuries from deli slicers. The investment was not small with that upgrade alone costing over \$4000 per machine.

Recognising they weren't preparing workers appropriately to deliver the desired safety performance a significant amount was invested in training. This was very well received by workers, a recent course saw every single band saw operator come along on their day off, not because they had to but because they wanted to.

Changing the culture was fundamental to the process, implementing measures of performance that meant something to workers and ensuring that all incidents were reported was vital. The organisation now has a culture where the first thought is not blame but how to support the affected person followed by what can we learn and how do we share that.

The investment Progressive have made in health and safety has delivered results – the LTIFR is now under 5 and the financial cost of injuries at work has halved since 2009. It has also had a real impact on staff attitudes and beliefs with over 95% of staff strongly agreeing that safety is important to the organisation.

Role of directors

The role of directors is outlined in the following pages in terms of four key elements:

- policy and planning
- deliver
- monitor
- review.

These sections are supported with a series of actions and diagnostic questions that are available online at www.iod.org.nz

Policy and planning

Directors should ensure that the organisation has the right structure and policies in place to enable an effective health and safety culture. A director's responsibilities in this area include:

- Determining the board's charter and structure for leading health and safety.
 - The board may consider delegating a lead role in health and safety to an individual who has the necessary expertise or a committee.
- Determining high level health and safety strategy and policy, including providing a statement of vision, beliefs and policy.
 - Policies should reflect the organisation's responsibility to provide a safe and healthy environment for anyone affected by their activities.
 - Management and workers should be involved with the preparation and reality testing.
- Holding management to account for implementing strategy.
- Specifying targets that will enable them to track the organisation's performance in implementing board strategy and policy.
 - Targets should:
 - Be measurable
 - Be challenging but realistic
 - Contain a mix of lead and lag indicators, ensuring a greater weighting on lead indicators which focus on prevention.
 - Directors should ensure their organisation views health and safety and financial targets as complementary, not in conflict with each other.
 - Before applying the aspirational target of zero harm, consider the strength of your organisation's risk and reporting culture. It is important that the target doesn't create cover-ups and non-reporting.
- Managing the health and safety performance of the CEO, including specifying expectations and providing feedback.

CASE STUDY

Icepak Coolstores

A director of Icepak Coolstores Ltd was convicted and fined \$30,000 after pleading guilty to a charge of breaching health and safety regulations. The specific charge was that he acquiesced in the failure of the company to take all practicable steps to ensure the safety of its employees while at work. This followed the coolstore explosion and fire at Tamahere near Hamilton in April 2008. The explosion killed a firefighter and left seven other firefighters with serious injuries.

Icepak Coolstores had installed a propane-based refrigeration system which they were aware was unique as an industrial operation of this kind had never been adapted to use a highly flammable, explosive substance. The Fire Service had not been made aware of the presence of the explosive material nor were there any warning signs indicating its presence. The Crown claimed that directors had ignored a number of 'red flags' which should have alerted them to the risk such as propane gas regularly leaking, site gas detectors that needed replacing and several sources of ignition such as forklifts and switchboards.

The term 'acquiescence' is not defined in the Act and there was no discussion during the case regarding the meaning as the director had entered a guilty plea. The Department of Labour's position was that acquiescence meant the director was aware of the circumstances of the offending (not necessarily aware that there was an offence committed, just aware of the circumstances), was in a position to do something about it (the fact they were working directors of the business assisted with this) and didn't do anything about it.

Deliver

Directors should outline clear expectations regarding the organisation's health and safety system and ensure that sufficient resources are provided to support the system. A director's responsibilities in this area include:

- Laying down a clear expectation for the organisation to have a fit for purpose health and safety management system that is integrated with other systems.
 - The size, sophistication and detail of the system will reflect the organisation's risk profile, with high hazard organisations requiring more substantial systems.

- Exercising due diligence to ensure that the system is fit for purpose, being effectively implemented, regularly reviewed and continuously improved.
- Being sufficiently informed about the generic requirements for a modern, best practice health and safety management system and about their organisation and its hazards to know whether its system is fit for purpose, and being effectively implemented.
- Ensuring sufficient resources are available for the development, implementation and maintenance of the system.

KEY ASPECTS OF A HEALTH AND SAFETY MANAGEMENT SYSTEM



Always remember, the key is to know what is happening in your organisation so that the board can make the right decisions.

Monitor

Directors should monitor the health and safety performance of the organisation to ensure systems have been effectively implemented and improvements are being made. A director's responsibilities in this area include:

- Monitoring the health and safety performance of the organisation.
- Outlining clear expectations on what should be reported to the board and in what timeframes.
 - The following information should be on the board's agenda on a regular basis:
 - data on all incidents, including near misses and occupational illness. Effective monitoring of these statistics can alert the board to underlying problems before any serious incidents occur.
 - data on absence rates due to sickness that can be indicators of issues such as stress and fatigue.

CASE STUDY

Coca-Cola Amatil NZ

Following a worsening trend in workplace accidents in 2010, it implemented a five step reform of health and safety measures. The five steps were clear and uncomplicated:

1. Set measurable goals relating to what they wished to achieve with its health and safety reform.
2. Use robust and fit for purpose health and safety (including hazard) management systems and ensure they are fully integrated into the company.
3. Change the culture (including improvement of the reporting culture).
4. Introduce practical programmes (such as stretching before manual labour).
5. Visible leadership – one of the key actions undertaken by the managing director responsible for health and safety was to join the health and safety leadership forum. Another more simple action was to sit in on health and safety committee meetings.

In the year following implementation of the health and safety measures there was a marked increase in reported injuries, but the severity of the injuries had declined. There were 155 near hits reported in November 2011. This indicated a substantial uptake of values by workers at the company and a change in attitudes toward health and safety along with the overall reporting culture. It also indicated that the systems put in place were working. In 2011, the company saw a 90% decrease in ACC costs and in the first quarter of 2012, had zero lost time injuries.

- data on trends including routine exposure to risks that are potentially harmful to health such as high noise levels, toxic chemicals and bullying.
- progress with the implementation of formal improvement plans.
- actions in place aimed at preventing harm, such as training, and maintenance programmes.
- the health and safety performance and actions of contractors.
- reports on internal and external audits, and system reviews.
- Review reports to determine whether intervention is required to achieve, or support organisational improvements.
 - Directors should review serious incident reports and be satisfied with the integrity of the process, that the incident investigation has correctly identified root causes and that an effective action plan has been put in place to address the issues identified.
- Making themselves familiar with processes such as audit, risk assessment, incident investigation, sufficient to enable them to properly evaluate the information before them.
- Seeking independent expert advice when required to gain the necessary degree of assurance.

Review

The board should conduct a formal review of health and safety performance on a periodic basis to determine whether principles have been embedded and whether the system is still fit for purpose. A director's responsibilities in this area include:

- Ensuring the board conducts a periodic (eg annual) formal review of health and safety to determine the effectiveness of the system and whether any changes are required.
 - It is normal for audits and system reviews to recommend actions for improvement. Directors should ensure that these recommendations are properly considered by management and where agreed, implemented.
 - It is desirable that an internal audit or review team comprises a cross section of managers and worker representatives so that a range of perspectives, knowledge and skill is brought to the table.
- Ensuring the board considers whether an external review is required for an independent opinion.
 - It is good practice for the organisation to periodically seek independent and objective assurance from an external audit and/or system review.

Directors must never turn a blind eye to undesirable information. They should seek out complete and accurate information and always act decisively whenever that information suggests there is an issue.

Conclusion

As a director, managing your organisation's health and safety risk is just as important as managing financial and reputational risk and it should receive the same focus. Boards are responsible for determining high level health and safety strategy and policy which managers are required to implement. Board responsibility however, does not stop with the issuing of strategy and policy as they should also ensure that it is implemented effectively. They do this by holding management to account through processes of policy and planning, delivery, monitoring and review. This includes recognising when the organisation is doing well and celebrating success. Through these processes the board should ensure that they have created an environment in which a commitment to health and safety is part of everyday business. Having a positive health and safety culture and an integrated, embedded and effective health and safety management system in which managers and workers take individual ownership will have significant benefits for the organisation.

"We insist that safety is our number one priority. Above all else, we value human life and expect that our port colleagues will go home to loved ones at the end of their shift in the same condition they entered the port gate."

MARK CAIRNS, PORT OF TAURANGA

Director health and safety checklist

- How does the board and all directors demonstrate their commitment to health and safety?
- How do you involve the organisation's workers in health and safety? Do they feel able to express any concerns?
- How do you ensure that your organisation's health and safety targets are challenging, realistic and aren't creating unintended consequences?
- What data is the board receiving on health and safety? Is this sufficient?
- How do you ensure all staff are competent and adequately trained in their health and safety responsibilities and accountabilities?
- Does the organisation have sufficient resources (people, equipment, systems and budget) for its health and safety programme?
- Does the organisation have a schedule of audits and reviews to ensure the health and safety management system is fit for purpose?
- How do you ensure that actions identified in incident reports, audits and reviews are communicated and effectively implemented?
- How do you ensure that the organisation's risks are assessed and appropriate mitigation measures put in place?
- How connected are you to what happens at the organisation's work sites? What measures are in place to inform you?
- Does the organisation have policies and processes in place to ensure contractors used by the organisation have satisfactory health and safety standards?
- How does your organisation's performance compare with other comparable organisations and how do you know?
- How do you recognise and celebrate success?

Resources

Good Governance Practices Guideline for Managing Health and Safety Risks – (available from the Institute of Directors and the Ministry of Business, Innovation and Employment).

Key legislation (all available online at www.legislation.govt.nz)

- *Health and Safety in Employment Act 1992*
- *Accident Compensation Act 2001*
- *Hazardous Substances and New Organisms Act 1996*

A wide range of regulations and codes of practice can be found on the MBIE website.

Standards (All available from Standards New Zealand, www.standards.co.nz)

- *AS/NZS 4801:2001 – Occupational Health and Safety Management Systems – Specification with guidance for use*
- *AS/NZS 4804:2001 – Occupational health and safety management system – General guidelines on principles, systems and supporting techniques*
- *AS/NZS ISO 31000:2009 – Risk management – Principles and guidelines*

Publications and websites

- Ministry of Business, Innovation and Employment – www.mbie.govt.nz
 - *A Guide to the Health and Safety in Employment Act 1992*
 - *Taking All Practicable Steps* www.osh.govt.nz/order/catalogue/pdfs/allpracticablesteps.pdf
 - *How Health and Safety Makes Good Business Sense* www.dol.govt.nz/publications/research/good-sense/summary.asp
 - A range of health and safety factsheets on topics such as serious harm, taking all practicable steps and employee participation systems are available online at www.osh.govt.nz/order/catalogue/factsheets.shtml#hse
 - A series of health and safety publications can be found at www.osh.govt.nz/order/catalogue/hse-publications.shtml
- ACC – www.acc.govt.nz/publications
 - *Measuring your capabilities in Workplace Safety Management – ACC Workplace Safety Management Practices Audit Standards (ACC442)*
- *Guidance for Officers in Exercising Due Diligence* – www.comcare.gov.au/_data/assets/pdf_file/0020/102566/Guidance_for_officers_in_exercising_due_diligence.pdf
- Institute of Directors in New Zealand – www.iod.org.nz
- *The Four Pillars of Governance Best Practice* – (available from the Institute of Directors in New Zealand)
- *Leading Health and Safety at Work, Leadership actions for directors and board members* – www.hse.gov.uk/pubns/indg417.pdf
- *World Class CEO Safety Leadership Assessment (Business Leaders' Health and Safety Forum)* – www.zeroharm.org.nz/leadership/leadership-assessment/
- *The return on prevention: Calculating the costs and benefits of investments in occupational safety and health in companies*, International Social Security Association Research Report www.issa.int/content/download/152234/3046913/file/2-Return-on-prevention.pdf

Glossary

All practicable steps – A key concept in the HSE Act that relates to a requirement to take all steps that a reasonable, prudent person would take in the same situation. For a full definition or explanation of “all practicable steps”, refer to the HSE Act and/ or the Department of Labour fact sheet, both of which are referenced in the resource list.

Best practice – A method or technique that in like circumstances has consistently shown superior results in comparison to results achieved using other means – used as a benchmark.

Harm – Illness, injury, or both. This includes physical or mental harm caused by work-related stress.

Hazard – Is defined in the HSE Act as an activity, arrangement, circumstance, event, occurrence, phenomenon, process, situation, or substance (whether arising or caused within or outside a place of work) that is an actual or potential cause or source of harm; and includes:

- a situation where a person’s behaviour may be an actual or potential cause or source of harm to the person or another person; and
- without limitation, a situation described above resulting from physical or mental fatigue, drugs, alcohol, traumatic shock, or another temporary condition that affects a person’s behaviour.

Lost time injury frequency rate (LTIFR) – Number of reported injuries that resulted in at least one day being lost from work after the day of the injury or illness per million hours worked.

Near miss – A situation or incident where harm might have occurred.

Organisational culture – Collective set of values and beliefs held and exercised within an organisation or workplace.

Serious harm – Is defined in the HSE Act as:

- any of the following conditions that amount to or result in: permanent loss of bodily function, or temporary severe loss of bodily function: respiratory disease, noise-induced hearing loss, neurological disease, cancer, dermatological disease, communicable disease,

musculoskeletal disease, illness caused by exposure to infected material, decompression sickness, poisoning, vision impairment, chemical or hot-metal burn of eye, penetrating wound of eye, bone fracture, laceration, crushing

- amputation of body part
- burns requiring referral to a specialist registered medical practitioner or specialist outpatient clinic
- loss of consciousness from lack of oxygen
- loss of consciousness, or acute illness requiring treatment by a registered medical practitioner, from absorption, inhalation or ingestion of any substance
- any harm that causes the person harmed to be hospitalised for a period of 48 hours or more commencing within seven days of the harm’s occurrence.

Significant hazard – is defined in the HSE Act as a hazard that is an actual or potential cause or source of:

- a. serious harm; or
- b. harm (being harm that is more than trivial) the severity of whose effects on any person depend (entirely or among other things) on the extent or frequency of the person’s exposure to the hazard; or
- c. harm that does not usually occur, or usually is not easily detectable, until a significant time after exposure to the hazard.

Workers – Employees of the organisation, its contractors and its subcontractors.

Zero harm – An expression used by many organisations to describe an aspirational target of no harm of any sort to workers.

All definitions that relate to legislation are correct as at 30 April 2013.

For further information

www.iod.org.nz

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