

Practice Note PN 1.219

Health and Safety at Work Act 2015

PURPOSE OF THIS PRACTICE NOTE

The purpose of this Practice Note is to help members understand their obligations under the new Health and Safety at Work Act (the **Act**) that will come into force on 4 April 2016. Other Practice Notes on topics that require greater detail will be released before the Act comes into force.

Introduction

The Act has far reaching obligations and will apply equally to sole practitioners, small practices and large organisations. It is important that all upstream providers understand their duties, irrespective of their practice size.

Designers are known as 'upstream' duty holders, meaning that they have influence over the safety of any plant, substances or structures they design before the plant, substances or structures are in use in the workplace and can have an effect on the safety of those who use them 'downstream' in their lifecycle.

Members may already be fulfilling most of their duties under the Act, as part of good practice. For those members, the most significant change come April 2016 will be the need to keep clear written records of the steps they are already taking in order to be able to prove that the new obligations under the Act are being met.

PART A - WHAT CAN PRACTICES DO TO DISCHARGE THEIR OBLIGATIONS?

Practices will be a **person conducting a business or undertaking (PCBU)** under the Act.

As a PCBU, practices:

- will have a duty to ensure that the health and safety of workers and others is not put at risk by the practice's work;
- will have a duty to ensure that any workplace they control or manage is without risks to the health and safety of any person;
- cannot contract out of these duties;
- cannot insure against fines imposed under the Act;
- must consult with workers and others on health and safety matters; and
- also have duties as designers (see the separate section entitled "what can designers do to address their obligations").

This means that practices must comply with the **primary duty** of PCBUs and with the **duty of a PCBU who manages or controls a workplace** (for more, see sections on PCBU duties).

It is important to remember that it is the practice that is a PCBU not, for example, an Associate of the practice. Associates will likely owe duties as officers. Officers of a practice will need to fulfil their **due diligence** duties (for more, see section on officers).

A PCBU's health and safety duties apply at any workplace. A practice will have to ensure the health and safety of its workers both in the office and at any other place where its workers have been engaged to carry out work (for example, construction sites or residential homes). Where a practice is being run from a residential home, the home will be a workplace while work is being carried out there. This means that duties will be owed by the practice as a PCBU at that workplace.

In addition to ensuring the health and safety of workers, a practice will also have a duty as a PCBU to ensure, so far as is reasonably practicable, that the health and safety of others is not put at risk from the work being carried out. This will include the health and safety of residents and any visitors who are present when work is being carried out.

To identify the group of persons owed a duty, a practice should ask:

- Are the workers employed or engaged by us?
- Do the workers work in our business or undertaking?
- Do we influence and direct the work activities that other workers carry out; and if so, how?
- Are there others affected by the work of our business or undertaking; and if so, how?
- Do we manage or control the workplace and are there persons who could be affected by the workplace, the means of entering or exiting the workplace or anything arising from the workplace?

The Act contemplates a safe working environment. To comply with health and safety duties, practices need to ensure that all steps have been, or are being, taken to ensure appropriate workplace systems, procedures, education and training processes are in place. It will be important to keep clear written records so as to be able to confidently say and prove that workplace health and safety practices are being implemented and monitored for compliance.

Common sense applies to the application of the Act. Workplace health and safety is taken seriously by the regulator but the Act does not intend obligations to be taken to the extreme. As a PCBU, practices only need to do what is reasonably practicable to ensure the health and safety of workers and other persons being affected by the work being carried out (for more, see section on reasonably practicable).

In addition, a practice is only required to discharge its duties to the extent that it has the ability to influence or control the matter. If the practice owes overlapping duties with other PCBUs and the ability of the practice to influence or control the matter is limited, then the practice should seek to co-ordinate activities with the other PCBUs by agreeing allocated responsibilities and then monitoring those other PCBUs to ensure compliance (for more, see section on overlapping duties).

To identify the appropriate steps that may be taken to comply with health and safety duties, a practice should ask:

- What is reasonably practicable for us to do?
- Do we share our duty with another PCBU and if so, what is our ability to influence and control the health and safety matter compared to the other PCBU that we share the duty with?
- How do we best co-ordinate activities with the other PCBUs through allocating responsibilities and monitoring to ensure we are all doing what we agreed to do?

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As a **good starting point**, a practice needs a person (such as a Practice Manager) or committee to drive health and safety. For a small practice, use of its practice support group is one way of doing this. The person or committee should at least:

- Identify the practice's health and safety needs. This may require an assessment of the physical environment (for example, are office filing systems safely affixed) plus an investigation of other matters such as worker fatigue, stress levels, bullying and car safety. Re-assessments should also be scheduled on a periodic basis.
- Consider the practice's emergency response preparedness including incident or crisis management plans. Such plans should also be updated on a periodic basis.
- Ensure that sufficient resources are provided to meet the practice's health and safety needs. This may involve ensuring that sufficient funding is provided but it should also include consideration of whether appropriate time is being made available, for example, for workers to complete training.
- Implement and supervise the practice's health and safety policy and its procedures, including risk assessments. This may involve some internal verification work but also, ideally, a periodic assessment by an independent party.
- Ensure all staff are issued with a copy of the practice's health and safety policy and any revisions. This could be done electronically or by making hard copies available. It will be important to ensure that briefing new staff about health and safety becomes part of the induction process. Depending on the size of the practice, there may be specific worker engagement obligations too. (More on this below.)
- Arrange for all members of the practice to co-operate in meeting the aims of the policy. This may involve scheduling regular discussions or meetings about health and safety.
- Ensure sufficient training is provided to all staff to enable them to fulfil their duties in accordance with the health and safety policy. Training should be ongoing and reflect learnings from any workplace incidents. It will be important to keep a record of training undertaken by whom and when.
- Consider how the practice will consult, co-operate and co-ordinate with other PCBUS at workplaces where overlapping duties will exist. For example, there may be a need to ensure that (verbal and written) working protocols are developed to meet this obligation.
- Record incidents and significant occurrences of work related ill health.
- Investigate incidents with a view to determining the root cause of what occurred and developing initiatives to prevent it from happening again.
- Take appropriate disciplinary action in the event of any breach of or refusal to comply with health and safety obligations.
- Set an example in all aspects of health and safety.

Practices should remind their officers that the exercise of due diligence cannot, however, be delegated to this Practice Manager or committee. Each officer must make due diligence inquiries. Conducting meetings, providing written reports and sharing incident data may help officers comply at least in part with their duties.

Practices will also need to ensure that they are **engaging with their workers**. The Act has increased obligations on PCBUs to support worker participation and to engage with workers about matters of health and safety. The Act does not require any specific worker participation practices. The new health and safety regulator in this country, WorkSafe New Zealand, has said that what is required for effective worker participation will vary between PCBUs. Some examples of worker participation practices include health and safety representatives and/or health and safety committees. You may already have these set up in your practice.

Adequate policies and procedures should be in place or be put in place by every practice to deal with health and safety issues that can arise, such as bullying, stress, fatigue and other general health matters that may arise for workers.

Workers of the practice will separately owe duties to themselves and others in the workplace (for more, see section on workers). Practices should make sure that their workers understand their obligations under the Act. Workers need to:

- Take care of themselves and others who may be affected by their acts or omissions at work. For example, ensure electrical plugs are safely and correctly wired and place telephone and electricity cables where they are not a potential hazard.
- Set a personal example to their colleagues and clients in all aspects of health and safety. For example, report faulty office equipment and other potential hazards (such as fire escape obstructions).
- Keep escape routes (in case of fire), stairways, passageways and space between desks free of all obstructions.
- Report any incident, however minor.

Some **practical things to consider** are:

- (a) the practice's work environment and systems;
- (b) training of workers' health and safety obligations and supervision in relation to same;
- (c) record-keeping around worker training and engagement;
- (d) the monitoring of health and safety (including the extent to which external parties are periodically retained to audit and assess the PCBU's health and safety system);
- (e) client education and terms of engagement including educating clients about increased health and safety obligations and costs;
- (f) fees review including the extent to which additional health and safety costs can appropriately be charged to clients;
- (g) the practice's insurance cover terms and conditions including in light of the increased investigative activity being undertaken by WorkSafe New Zealand;
- (h) the practice's existing contractual arrangements which are in place post 4 April 2016; and
- (i) the 'culture' of the practice and staff.

PART B – WHAT CAN DESIGNERS DO TO DISCHARGE THEIR OBLIGATIONS?

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Practices which are designers must comply with the new duty under the Act on a **PCBU who designs plant, substances or structures**. This in addition to the other duties owed by a PCBU (for more, see section on PCBU duties).

To be a designer, a practice must design plant, substance or structure that is to be used or could reasonably be expected to be used as or at a workplace. This could include the design of a residential home if it is reasonably foreseeable that the home may be used as a workplace in the future.

Design is defined broadly in the Act, as are plant and structure.¹ It includes the design of part of the plant or structure, and redesign or modification of an existing design. This means that each practice involved in the design will owe a duty as a designer. Where parts of projects such as roof trusses, glazing, air-conditioning and curtain walling are designed by contractors and/or sub-contractors, the PCBU that has designed each independent part will owe a duty as a designer.

As a PCBU which is a designer, practices:

- will have a duty to ensure, so far as is reasonably practicable, that any designs of plant, substances or structures are without risks to the health and safety of those at a workplace who use the structure for the purpose for which it was designed and any visitors to the workplace;²
- cannot contract out of this duty;
- must consult, co-operate and co-ordinate with other PCBUs and designers owing overlapping duties;
- must also carry out any analysis and testing necessary to ensure the design will be without risk to health and safety; and
- must provide relevant information about the plant or structure to each person who is provided with the design and current relevant information to persons who request it.

The duties owed by a designer under the Act extend beyond the design phase throughout the lifecycle of the design. Designers need to consider the health and safety of those people who construct, maintain, clean, repair and eventually demolish the structure.

It may be difficult for a designer to accurately predict how another PCBU will elect to construct or demolish a building. Again, common sense applies. The obligation under the Act is that a designer must, so far as is reasonably practicable, ensure that the structure is designed to be without risks to the health and safety of persons carrying out a reasonably foreseeable activity. A designer should document its thinking around what activities are reasonably foreseeable, the associated risks and the way the design could seek to eliminate or minimise those.

The Australian regulator, Safe Work Australia has published a Code of Practice: **Safe Design of Structures** that sets out a four step **risk management approach**, which involves:

- identify hazards – find out what could cause harm. Identify potential hazards throughout the lifecycle of the proposed structure including during construction, maintenance, repair and demolition;

¹ Section 16.

² Section 39.

- assess risks if necessary – understand the nature of the harm that could be caused by the hazard, how serious the harm could be and the likelihood of it happening;
- design control measures – implement the most effective control measure to eliminate or minimise risks that is reasonably practicable in the circumstances; and
- review the control measures – to ensure they are working as planned. Where possible involve the client, and people with knowledge and experience in the construction and maintenance processes.

All members are advised to download the free e-book ‘**Safe design in practice: For designers and structures**’ and **FAQ Sheets** from: <http://www.safedesignaustralia.com.au/>. This book outlines safe design under the Australian regulations in detail and includes more information on the risk management process and risk matrices, which can be used to determine risk levels and any identified hazards. We expect that the New Zealand regulations and code of practice will be developed in line with the Australian regulations and code of practice.

A designer may not have management and control of the actual construction work, but can still discharge its duty as a PCBU to **consult, co-operate and co-ordinate**, so far as is reasonably practicable, with the PCBU that does have management and control. The duty to consult, co-operate and co-ordinate exists only to the extent that a designer has the ability to influence and control the matter (for more, see section on overlapping duties).

In practical terms, this means that designers could provide information on hazards they have identified or guidance on safety elements of their design.

In complex projects, there may be a number of PCBUs and potentially other designers owing overlapping duties. The lead consultant on a project has no greater responsibility, but it is likely to have more ability to influence or control the matter. In this circumstance, a designer should seek to agree and clearly document the extent of its influence or control and responsibilities.

Designers must also carry out, or arrange for somebody else to carry out, any **calculations, analysis, testing or examination** that is necessary to ensure that their duty is met.

To decide whether any analysis or testing is necessary, a designer will need to consider what risks there are to the health or safety of the persons referred to above, and what needs to be analysed or tested to ensure that those risks can be eliminated, isolated or minimised, so far as is reasonably practicable.

A designer must give **specific health and safety information** to each person who is provided with the design, concerning:

- (a) each purpose for which the plant or structure was designed;
- (b) the results of any calculations, analysis, testing or examination; and
- (c) any conditions necessary to ensure that the plant or structure is without risks to health and safety when used for a purpose it was designed.

In practice, this information could be compiled in a health and safety file.

On request, designers must also make reasonable efforts to give **current health and safety information** on the above matters.

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A designer may be asked to provide health and safety information about a building it designed many years ago. The designer may not be aware of changes made to the building since it was constructed. In this situation, the extent of a designer's duty is likely to be limited to the elements of the design detailed or specified by the designer and not by others (as each PCBU that designs has their own responsibilities).

As a **good starting point**, a designer should at least:

- Expect to be asked to demonstrate the practice's ability to meet its obligations under the Act. This might involve retaining documentation about the qualifications and experience of workers, plus material regarding project timing which should demonstrate that adequate time was made available to assess health and safety risks.
- Set out as clearly as possible to as many in the supply chain as possible the intended purpose of the designed object and consider whether that can be included on the plant or structure.
- Consider the lifecycle of the structure, what activities are reasonably foreseeable in respect of the structure, the associated risks and what can be done to eliminate or minimise those. Design the structure accordingly and clearly document thought processes.
- To assist with identifying reasonably foreseeable activities and so far as is reasonably practicable, seek out information on the types and frequency of maintenance, testing, repair and redecoration activities intended. Keep a file of any information received.
- Consider what needs to be examined or tested to ensure that you can eliminate all risks that can be eliminated as a matter of practicability and minimise any remaining risks.
- Seek (and keep) written confirmation that examiners or testers are appropriately qualified. Reference checks could be useful.
- Work on appropriate design solutions to address any health and safety risks. Budget time and cost accordingly to provide for such work to happen.
- Be prepared to conduct risk assessments for new or complex hazards to determine how they may be most effectively controlled. If a hazard cannot reasonably be eliminated, then consider how the hazard can be minimised.
- Seek to comply with the standards imposed by the Act, even if that means doing something more than the Building Act 2004 currently requires.
- Keep up to date with materials in the public domain or in specialist publications in your area of operation, which indicate that there may be health and safety risks associated with types of plant, substances or structures. The regulator is likely to expect designers to be aware of local and overseas knowledge about problems and risks in respect of plant or structures the designer is designing.
- Compile information regarding the intended purpose of the design, any analysis and testing and any conditions necessary to ensure health and safety in a file. That file could include copies of all relevant health and safety information you have prepared and used in the design process, such as a report on the designer's assessment of risk and the actions that the designer has taken to control those risks, risk register, safety data sheets, and manuals and procedures for safe maintenance, dismantling or eventual demolition.

- If the designer is involved in a complex project with a number of PCBUs, seek to agree and clearly document the extent of its influence or control over health and safety matters, and responsibilities in respect of those.
- More generally, appropriately document any discussions or actions taken to meet health and safety duties. Record keeping is likely to become more important for both designers and individual workers.

Some **practical things for a designer to consider** are:

- (a) how to collate and provide information to others involved with a project;
- (b) how best to consider the lifecycle of a design;
- (c) how health and safety information the designer has prepared and used in the design process (including the relevant information which must be given to each person provided with the design) should be collated and kept;
- (d) what health and safety information the designer can obtain from others involved in a project and whether there are any review processes the designer could seek to involve others in;
- (e) whether all reasonably practicable steps are being taken to ensure safety;
- (f) whether current risk management approaches are appropriate to deal with the increased obligations;
- (g) whether standards imposed by the Act require doing something more than the Building Act 2004 currently requires;
- (h) how to manage consulting with other PCBUs at a workplace;
- (i) additional project deliverables and client information and risk information; and
- (j) setting up processes and requesting information now to seek to ensure compliance with obligations once the Act comes into force.

PART C - WHAT CAN OFFICERS DO TO DISCHARGE THEIR OBLIGATIONS?

As a PCBU, each practice will have officers. Officers have a new **due diligence** duty under the Act to ensure that the PCBU complies with its duties. This includes showing that an officer has taken reasonable steps to:

- acquire and update knowledge of work health and safety matters;
- understand the operations of the PCBU in which they are employed, and the hazards and risks associated with those operations;
- ensure the PCBU has appropriate resources and processes to eliminate or minimise risks to health and safety arising from work being done;
- ensure the PCBU has appropriate processes to receive and respond promptly to information about incidents, hazards and risks;
- ensure there are processes for complying with any duty under the Act; and

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- verify that all of these resources and process are in place and are being used.

Due diligence requires taking positive action to solve problems and manage hazards.

Whether an officer has acted with due diligence depends on whether or not he or she took all reasonable steps in the circumstances. When considering what may be required to comply with the duty of due diligence, the nature of the business, the position of the officer and the nature of their responsibilities undertaken by the officer is also relevant. What might meet the standard of due diligence in one practice may not meet the standard in another. This is because each situation and workplace is different and requires assessing on an individual basis (the size of a practice, for example, is likely to be relevant). For example, there may be differences in an officer's capacity to influence decisions or in the allocation of resources for work health and safety.

As with other duty holders under the Act, it will be important for officers to keep written records of decisions made and steps taken so as to be able to prove due diligence has been exercised.

Importantly, the due diligence duties of officers supports improved leadership that contributes to a safety culture. It is well recognised that effective risk management starts with a commitment to health and safety from those who operate and manage the business or undertaking. Officers are therefore likely to have a great deal of influence over the safety culture of a practice, even if the real responsibility for that rests with the practice.

Some **practical things for an officer to consider** are:

- (a) prepare a statement that outlines the practice's commitment to health and safety and update the charter periodically;
- (b) understand the practice's operations, the hazards and risks associated with the operations and the systems in place to control and manage those hazards and risks;
- (c) hold senior management to account for health and safety by developing specific targets, implementing stringent reporting requirements and including health and safety targets in KPIs;
- (d) receive and review comprehensive updates on health and safety incidents, near misses, illnesses, contractors' health and safety performance, progress with implementing formal plans, risk assessments and findings from internal and external audits;
- (e) monitor the practice's health and safety performance and understand its processes by reviewing audits, management plans, risk assessments, risk registers and incident investigations;
- (f) ensure the practice allocates adequate resources and engages appropriate expertise to implement, develop and maintain the health and safety management system;
- (g) demonstrate the reasonableness of any reliance on others through the receipt of credible information and advice from appropriate people;
- (h) obtain independent expert advice as required; and
- (i) arrange periodic formal reviews of the practice's health and safety performance, and ensure appropriate steps are implemented to address any recommendations from reviews.

For officers who are not directors, not all of these steps will be relevant or possible. However, it is prudent to take as many of these steps as is reasonably practicable.

PART D - OVERVIEW OF THE ACT

The Act will replace the Health and Safety in Employment Act 1992 and associated regulations.

Some **key terms** under the Act are:

- **person conducting a business or undertaking (PCBU)** – this concept replaces the employer, principal, self-employed, person controlling a place of work and supplier of plant duty holders under the old Act. Despite its name, a PCBU will usually be a business entity, such as a company, not an individual person. However an individual might be a PCBU if they are a sole trader or self-employed person. PCBUs have the primary duty under the new law to ensure the health and safety of workers and others affected by the work carried out by the PCBU. PCBUs cannot contract out of their duties even where those duties overlap with other PCBUs. PCBUs will include architecture practices and engineering practices, which will have a duty to ensure, so far as is reasonably practicable, that the work they do or the things they provide to the workplace do not create health and safety risks.
- **worker** – a worker is a person who carries out work in any capacity for a PCBU. This includes employees, contractors, sub-contractors, employees of contractors or sub-contractors, outworkers, labour hire workers, volunteers, trainees and persons gaining work experience. Sub-consultants will be workers where they are engaged by an architectural or engineering practice.
- **officer** – a new duty under the Act is that an officer of a PCBU (such as a director, partner or person who exercises significant influence over the management of the PCBU) must exercise due diligence to ensure that the PCBU complies with its duties. Self-employed members will owe duties both as a PCBU and as an officer of that PCBU.
- **volunteer** – where volunteers carry out work for a PCBU, the Act distinguishes between casual volunteers and volunteer workers.

Casual volunteers in a workplace are owed duties by the PCBU just like customers or visitors.

Volunteer workers are people who regularly work for the PCBU on an ongoing basis and are owed duties just like any other worker.

- **workplace** – means a place where work is being customarily carried out and includes any place where a worker goes, or is likely to be, while at work.

Some **key concepts** under the Act are:

- **reasonably practicable** – this means what is or was reasonably able to be done at a particular time to ensure health and safety. To decide what is reasonably practicable to ensure health and safety, a PCBU must take into account and weigh up:
 - (a) the likelihood of a hazard or risk occurring;
 - (b) the degree of harm that might result from that hazard or risk;
 - (c) what the PCBU knows or ought reasonably to know about the hazard or risk; and
 - (d) how to eliminate or minimise the risk.

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In doing this, members should think about the extent of the risk and the available ways of eliminating or minimising it, and then weigh up the cost and whether such cost is grossly disproportionate to that risk.

When deciding what is reasonably practicable, consideration should be given to the prevailing industry standards and the hazards and risks known at the time.

Inevitably in many workplaces, hazards and risks to health and safety will remain even after a PCBU has considered and discharged its core obligation under the Act. In that situation, then the risk must be minimised, so far as is reasonably practicable. Some ways of doing this might include:³

- (a) isolating the risk;
 - (b) coming up with engineering solutions;
 - (c) adapting work methods and procedures; and
 - (d) providing personal protective equipment.
- **overlapping duties** – because a PCBU owes duties to workers affected by its work, not just those who work for it, it is possible for that PCBU to owe overlapping duties. It should be expected that many workplaces will have multiple duty holders with overlapping duties under the new Act. PCBUs must discharge their overlapping duties to the extent they have the ability to influence and control matters. Overlapping duties do not automatically require PCBUs to duplicate efforts. Instead, PCBUs will need to **consult, co-operate and co-ordinate** activities to meet their shared responsibilities. The measures a PCBU should take in relation to its own workers are likely to be different from the measures which it should take in relation to the workers of another PCBU, as it will have less influence and control over the workers of that other PCBU.

Under the duty to consult, co-operate and co-ordinate, PCBUs should also monitor each other to ensure everyone is doing what they have agreed to do.

The Act also specifically contemplates that a person may have more than one duty imposed on them if they belong to more than one class of duty holder. So, for example, a member who is a **PCBU may owe a primary duty of care** and **also owe a duty as a designer**. More on this point above.

Some of the key **roles and responsibilities** under the Act belong to:

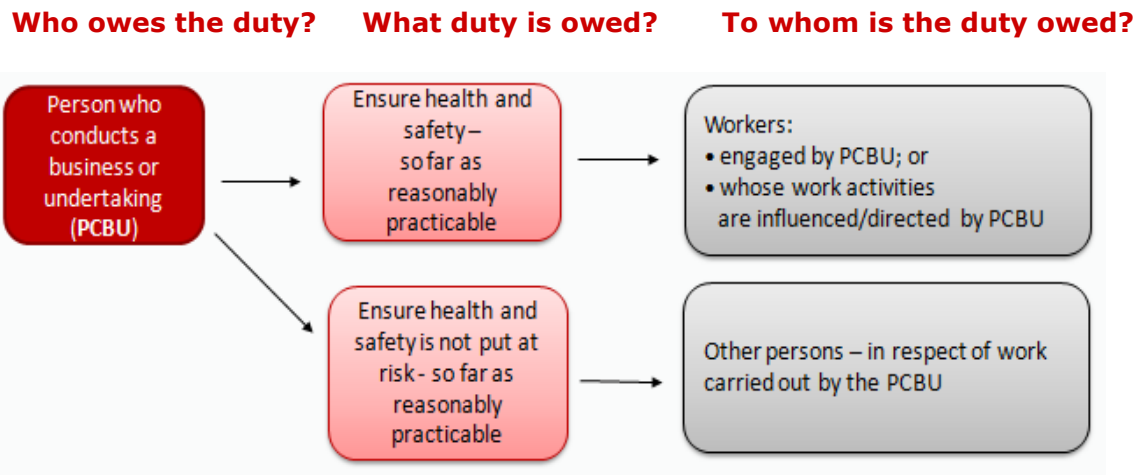
- **Primary duty of care of PCBUs**

PCBUs have the **primary duty of care** under the Act to provide and maintain a work environment that is without risks to health and safety. In particular, a PCBU has a duty to ensure that the health and safety of other persons, not just of workers, is not put at risk from the work carried out as part of the conduct of the business or undertaking.⁴ PCBUs cannot contract out of their responsibilities.

³ Worksafe, <http://www.business.govt.nz/worksafe/about/reform/3-overlapping-duties> and Safework http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/633/How_to_Manage_Work_Health_and_Safety_Risks.pdf, page 14.

⁴ Section 36.

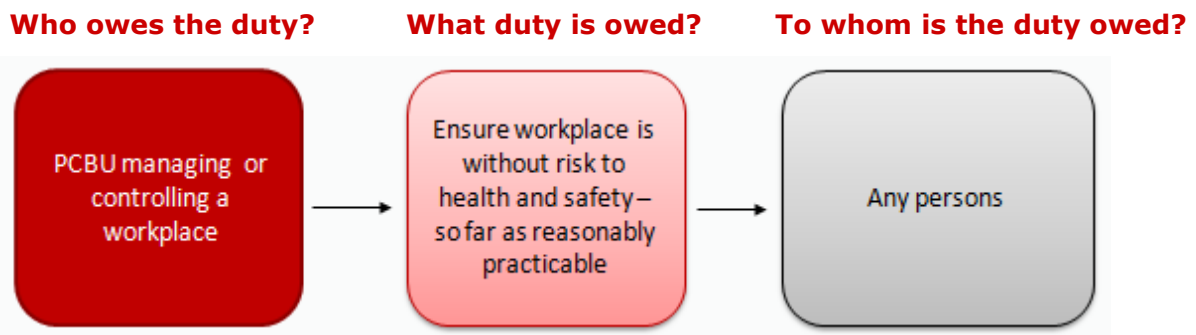
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- **PCBU who manages or controls a workplace**

PCBUs who **manage or control** (in whole or in part) a workplace must ensure, so far as is reasonably practicable, that a workplace (including the entering, exiting, and anything arising from the workplace) is without risks to the health and safety of any person.⁵

It is not always clear who has the management and control of a workplace, especially where a number of PCBUs have overlapping duties. In a workplace where there is only one PCBU, the scope of the duty will be clear. However, on a shared worksite it may be necessary to confirm which PCBU has management or control over the site in general.



- **PCBU who designs plant, substances or structures**

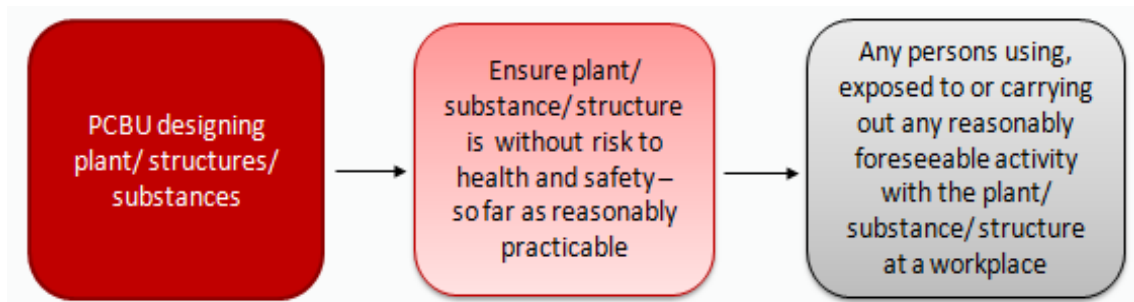
A PCBU that designs plant, substances or structures (**designer**) that will, or could reasonably be expected to be, used at a workplace must ensure so far as is reasonably practicable that the plant, substance or structure is designed to be without risks to health and safety.

Compliance with this duty includes testing, carrying out analysis and providing specific health and safety information about the plant, substance or structure.

⁵ Section 37.

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Who owes the duty? What duty is owed? To whom is the duty owed?



Others who have **roles and responsibilities** under the Act include:

- **workers**

Workers must take reasonable care for their own health and safety and that their acts or omissions do not adversely affect the health and safety of others. This will include complying with reasonable instructions, policies or procedures established by a PCBU to ensure compliance with health and safety duties.

- **officers**

Officers (e.g. directors, partners or persons exercising significant influence over the management of the PCBU) must exercise **due diligence** to ensure that the PCBU complies with its health and safety duties.⁶ This is a new duty under the Act that requires officers to be proactive in ensuring that a PCBU's obligations are met.

- **others in the workplace**

Others in the workplace, such as visitors or customers, have duties to take reasonable care for their own health and safety and to take reasonable care that their acts or omissions do not adversely affect the health and safety of others. This includes complying with reasonable instructions from PCBUs.

Members may also owe health and safety duties as volunteers. A volunteer worker owes the same duties as a worker under the Act. PCBUs owe a duty to ensure, so far as is reasonably practicable, the health and safety of volunteer workers.

HELPFUL RESOURCES AND LINKS

MBIE and WorkSafe are preparing new regulations to support the Act. The regulations will be based on the Australian Model Regulations and will provide guidance on general risk and workplace management, asbestos, hazardous substances, infringement notices and fees, worker participation, engagement and representation and major hazard facilities.

Exposure drafts for most of the regulations are available [here](#). Drafts of the remaining regulations are expected to be released later in 2015.

⁶ Section 44.

The information contained herein is intended as an advisory service only. No warranty or guarantee whatsoever is given as to the accuracy of any information contained in this Practice Note, nor is any liability accepted for any actions taken based on this information. You should seek professional advice on any specific matters pertaining to topics discussed herein.

Links to other useful materials are set out below:

- (a) [Ministry of Business, Innovation and Employment – “Good Governance Practices Guideline for Managing Health and Safety Risks”, May 2013;](#)
- (b) [Safe Work Australia – “Safe Design of Structures” Code of Practice, July 2012;](#)
- (c) [Safe Work Australia – “How to Manage Work Health and Safety Risks” Code of Practice December 2011;](#)
- (d) [Safe Work Australia – “Construction Work” Code of Practice November 2013;](#) and
- (e) [WorkSafe New Zealand – Health and Safety at Work Act.](#)

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