

Open Meeting

To	Te Kauwhata Community Committee
From	G J Ion Chief Executive
Date	20 May 2016
Chief Executive Approved	Y
DWS Document Set #	I522014
Report Title	Change in Health & Safety Legislation

1. EXECUTIVE SUMMARY

The purpose of this report and its attachments is to provide an update on the recent changes to the health and safety legislation following the introduction of the Health & Safety at Work Act 2015 (the Act). Council recognise that compliance is essential but they aspire to achieve best practice in health and safety performance and to create a sustainable zero harm culture where everyone goes home safe and healthy each day.

2. RECOMMENDATION

THAT the report from the Chief Executive be received;

3. BACKGROUND

We are in a new era of health and safety legislation. Whilst many are viewing this as a fundamental shift, it is not. The obligation and responsibility to keep people safe and health at work has not changed.

4. DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

This report and attachment provides a summary of a presentation provided by the Zero Harm Manager to the recent meeting of the Community Board and Community Committee members in Ngaruawahia.

5. CONSIDERATION

5.1 FINANCIAL

There are no direct financial implications of this report but inevitably providing a safe and healthy workplace requires investment in training, personal protective equipment and other resources.

5.2 LEGAL

This report outlines changes in legislation and details the requirements of the Health and Safety at Work Act 2015.

5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

This report is written in accordance with Council's Zero Harm Policy and is aimed to inform members of Community Boards and Community Committees.

5.4 ASSESSMENT OF SIGNIFICANCE & ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

(Ascertain if the Significance & Engagement Policy is triggered or not and specify the level/s of engagement that will be required as per the table below (refer to the Policy for more detail and an explanation of each level of engagement):

Highest levels of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	The due diligence requirements of the Act and the goal of zero harm should be to the forefront of the minds of staff, elected members, contractors, volunteers, the public and other stakeholders.				

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
	✓		Internal
	✓		Community Boards/Community Committees
			Waikato-Tainui/Local iwi
			Households
			Business
			Other Please Specify

6. CONCLUSION

It is intended that as a result of this report, Community Committee and Community Board members will understand their role and responsibilities. In essence, to achieve zero harm

and keep everyone safe, everyone (including Community Committee and Community Board members) must be responsible.

7. ATTACHMENTS

- Legislation summary

The Health and Safety at Work Act 2015 and corresponding Regulations 2016

The Act came into being on 4 April 2016; the main purpose of the Act is to provide for a balanced framework to secure the health and safety of **workers and workplaces** by:

- Protecting workers and others against harm to their health, safety and welfare by controlling risks.
- Providing for fair and effective workplace representation, consultation, co-operation and resolution of issues in relation to workplace health and safety.
- Encourages unions and employer organisations to take a constructive role in promoting improvements in workplace health and safety.
- Promotes the provision of advice, information, education and training in relation to work health and safety.
- Securing compliance with the Act through effective and appropriate compliance and enforcement measures.
- Ensuring appropriate scrutiny and review of actions taken by persons performing functions and exercising powers under the Act.
- Providing a framework for continuous improvement and progressively higher standards of work health and safety (**further to the above**)
- A regard must be had to the principle that workers and other persons should be given the highest level of protection against harm to their health and safety and welfare from hazards and risks arising from work or specified types of plant as is reasonably practicable.

Under the Health & Safety at Work Act 2015 an **Officer** of a PCBU (person conducting a business or undertaking) includes any other person occupying a position in relation to the business or undertaking that allows the person to exercise significant influence over the management of the business or undertaking.

An Officer includes the Chief Executive, directors of companies and probably general managers of the respective departments.

Community Boards are established pursuant to Section 48 of the Local Government Act 2002, and the role and powers are outlined in Sections 52 and 53 respectively.

Community Committees act as a representative of the community and provide a voice to the wider Council business.

Key functions of Community Committees are:

- Working with, and promoting the interests of the community in which they serve.
- Accumulating and using any available funds as the Committee considers necessary to carry out the objectives of the Committee on behalf of the community.
- Carrying out other lawful acts that are incidental to or conducive to the objectives of the Committee.

Given that Community Committees and Community Boards do not have significant decision making powers and limited hands on involvement, it is considered that Community Committee members and Community Board members would not be Officers under the Act as they do not have the ability to exercise significant influence over the day to day activities of a Business or undertaking.

Community Board members as elected members are not liable for prosecution but are expected to act responsibly and contribute to an effective health and safety culture in Waikato District Council.

Community Committees and Community Boards have a duty of care to ensure any activities carried out under their direction or knowledge is done so with the requirement that a person acts towards others and the public with watchfulness, attention, caution, and prudence that a reasonable person in the circumstances would. Caution would extend to ensuring that any volunteer work carried out for or on behalf of the committee would be carried out in a healthy and safe manner.

Community Committees or Community Boards are not seen as separate PCBU's so an elected member or member of those bodies are not Officers under the Health and Safety at Work Act 2015. The Council, as the PCBU holds that responsibility.

Duties of other persons at workplaces

Community Boards and Community Committees should also be aware of the general principles. A person at a workplace, whether or not the person has another duty under the Act must:

- a) take reasonable care for his or her own health and safety; and
- b) take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons; and
- c) comply, as far as he or she is reasonably able, with any reasonable instruction that is given by the PCBU to allow the PCBU to comply with the Act or regulations.