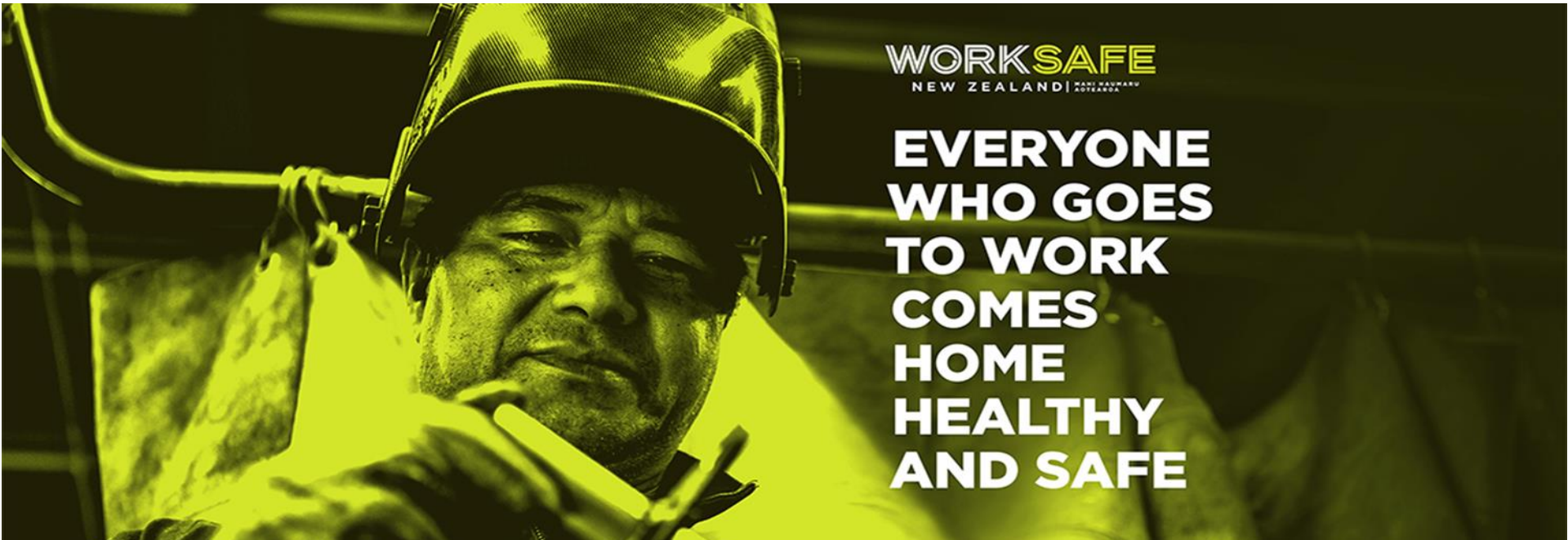


# The Health & Safety at Work Act



**WORKSAFE**  
NEW ZEALAND | HAUKI HAUWARI  
AOTEAROA

**EVERYONE  
WHO GOES  
TO WORK  
COMES  
HOME  
HEALTHY  
AND SAFE**

# WHY DO WE NEED NEW WORKPLACE HEALTH AND SAFETY LAW?

- 50 - 60 people die on the job every year
- 1000 workers die from work-related diseases
- 23,000 workers seriously harmed or killed
- 200,000 ACC claims for work-related harm
- \$3.5 billion in costs (2-4 percent of GDP)
- Devastating emotional toll



# We're beaten every day in H&S by the Aussies



# WORKSAFE – A MODERN REGULATOR

WorkSafe New Zealand - workplace health and safety regulator:

- **Engages** with industries and sectors to lift performance
- Provides **education** and guidance
- Provides health and safety **leadership**
- **Enforces** the law



# What HSWA framework provides



It makes everyone's responsibilities clear



It requires a cooperative approach for effective risk management



It involves workers, by encouraging workplace representation and engagement



It places duties on people who are able to contribute to the control of work health and safety risks



It ensures that everyone has a role to play in ensuring health and safety at work

# Busting some myths

- If someone gets hurt anywhere, anytime I'll cop a huge fine or go to prison
- There will be LOADS of extra paperwork.
- It will be expensive to comply
- Paper cuts are now a big deal.
- On April 4 WorkSafe inspectors will launch an inspection blitz as the 'health and safety police'

# HSWA – a new way of thinking about health and safety

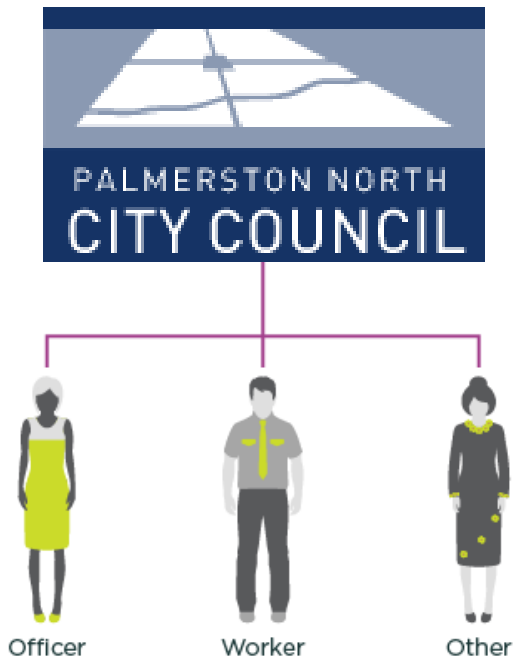


Do I have a duty?



What is my duty?

# Under HSWA there are four types of duty holder



1. Person conducting a business or undertaking (PCBU)  
e.g. PN City Council
2. Officers
3. Workers
4. Others at the workplace



# WHAT IS A PCBU?



A “person” conducting a business or undertaking

# WHO ISN'T A PCBU?



Workers



Officers



Volunteer Associations



Home Occupiers

# THE PCBU HOLDS THE PRIMARY DUTY OF CARE...



Because those who create risk...  
**Are** responsible for managing it.

# WHAT IS THE PRIMARY DUTY OF CARE?

The PCBU is required to look after the workers it employs or engages, as well as those workers **influenced or directed** by the PCBU

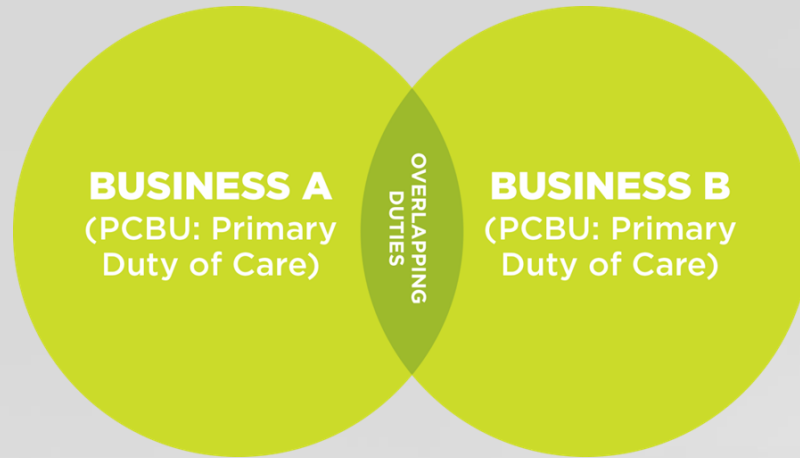
The PCBU must also ensure others' health and safety is not put at risk from the conduct of the business or undertaking

# **"SO FAR AS IS REASONABLY PRACTICABLE..."**

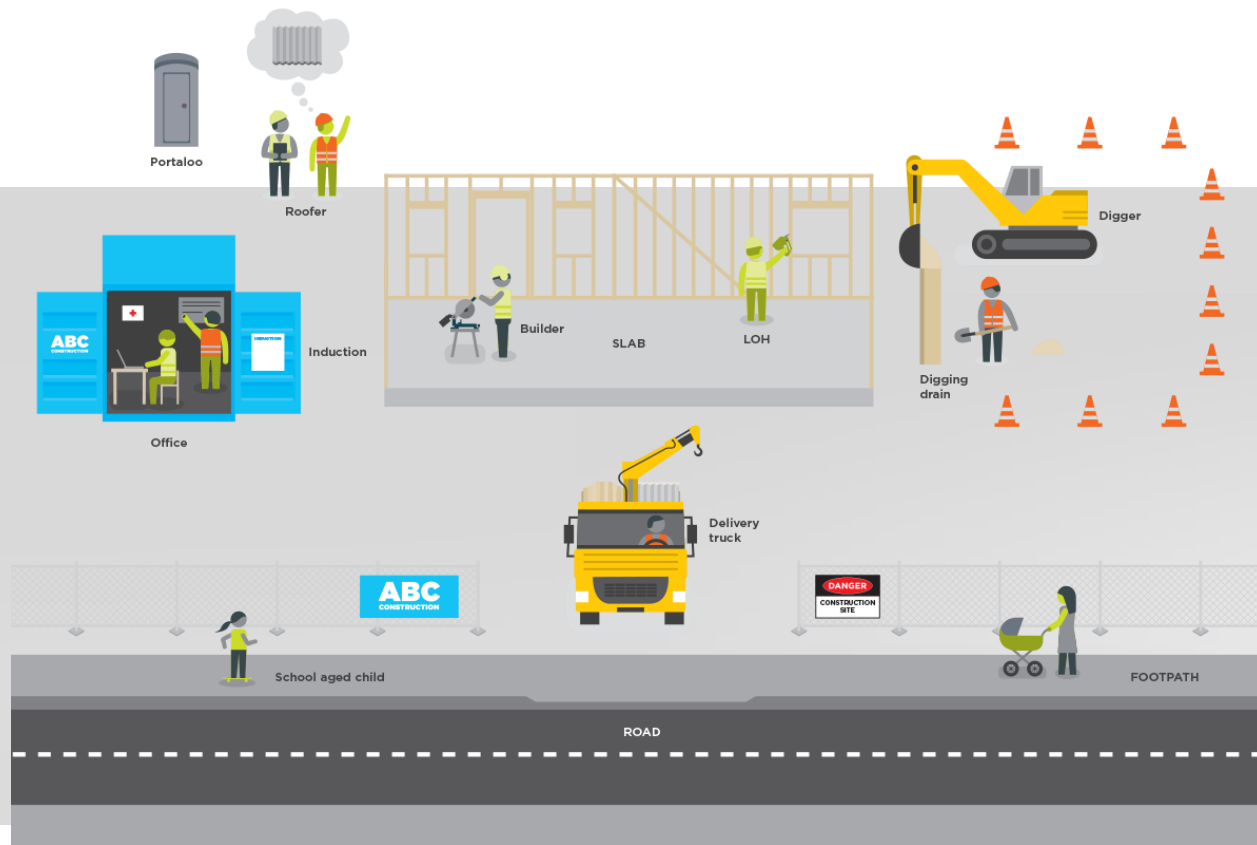
What is or was reasonably able to be done to ensure health and safety, taking into account and weighing up all reasonable matters



# PCBU HAS A DUTY TO CONSULT, COOPERATE AND COORDINATE



PCBUs must discharge their duty to the extent possible based on ability to influence and control the matter



# WHO IS AN OFFICER?



*"...exercise significant influence over the management of the business or undertaking (e.g. councillors, CE)*

# OFFICERS' DUTIES



**Due  
diligence**

# Due Diligence?

Officers must ensure their PCBU complies with the Act. This includes **taking reasonable steps** to:

- Have relevant, up-to-date knowledge of health and safety
- Gain an understanding of their PCBU's operations, hazards and risks
- Ensure the PCBU has appropriate resources to eliminate or minimise risks
- Ensure the PCBU has processes for receiving and acting upon information about incidents, hazards and risks
- Regularly verify the PCBU's health and safety resources and processes



# Officer Duties v PCBU Duties

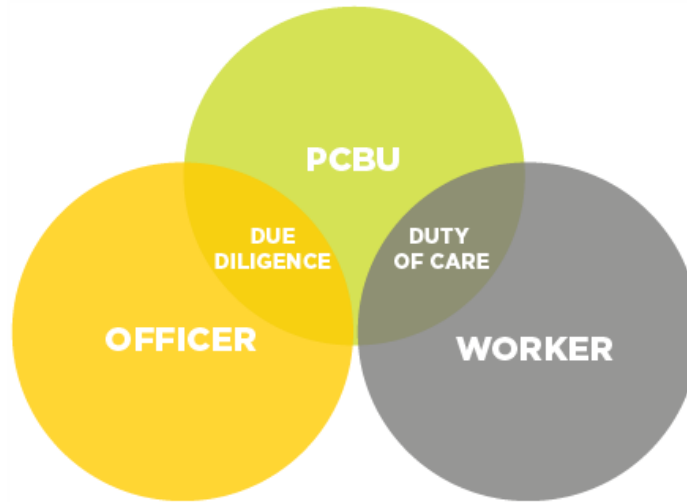


Officers do not have to directly ensure health and safety. They must exercise due diligence that the PCBU is meeting its primary duties.

PCBU holds primary duty for health and safety.

Officer's due diligence complements this duty – it doesn't replace it.

# Officer Duties v PCBU Duties



The officer's due diligence duty supports the PCBU's primary duty of care—it does not replace it.

# Certain officers cannot be prosecuted if they fail in their due diligence duty



- Elected members of local authorities
- Members of local or community boards
- School trustees
- Voluntary capacity

# WORKERS



“Reasonable care” to ensure their own safety and the safety of others

# Workers duties...

- Take care of own health and safety and not put others at risk
- Comply with reasonable instruction
- Cooperate with reasonable policy



# OTHER PERSONS AT THE WORKPLACE

- Visitors
- Customers
- Volunteers (casual)

**Duty** – take care of own health and safety and ensure don't put H&S of others at risk

- Must comply with reasonable instructions given by PCBU

# Who are volunteer workers?

- **Volunteer workers** are those who:
  - Work for a PCBU on an ongoing and regular basis and
  - Do it with the knowledge and consent of the PCBU and
  - Are integral to the PCBU's operation

(Note that the volunteer workers have to meet all three of these conditions to be considered a volunteer worker)

For example, a volunteer fire fighter would be classed as a “volunteer worker” under the Act

# Duties of volunteer workers

- The Act treats volunteer workers like any paid worker, except that the engagement and participation provisions do not apply to volunteers

For example, volunteer fire fighters will need to be afforded the protection of training, instruction and supervision, protective equipment needed to undertake their work safely, and that their health is monitored just like any other worker.

- While at work, volunteer workers have the same duties as workers.

# Who are casual volunteers

- **Casual volunteers** are those who do not meet the criteria of a volunteer worker and/or are:
- Participating in fundraising
- Assisting with sports or recreation for an educational institute
- Assisting with activities for an educational institute outside the premises of the institution

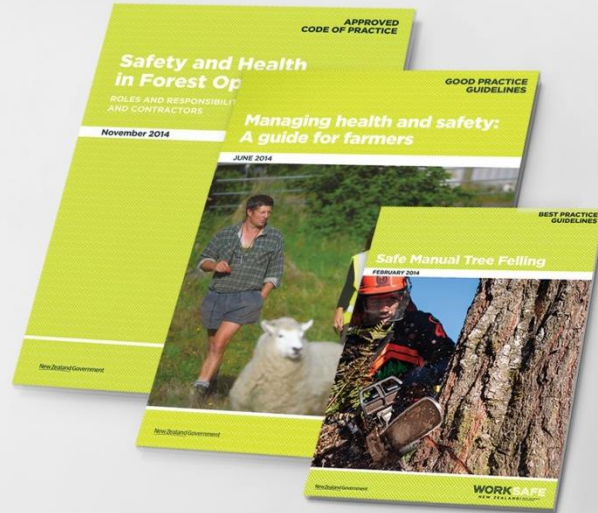
For example, volunteers at an annual park clean up.

# Duties of casual volunteers

- **Casual volunteers** are covered by the PCBU's primary duty of care to "others " not to put any person at risk from work carried out by the PCBU. For example, the volunteers at an annual park clean up organised by DOC, DOC would need to provide sufficient instruction or supervision to ensure the volunteers can carry out the tasks safely, so far is reasonably practicable.
- Casual volunteers do not have the same duties as workers, but like all other people at the workplace must take reasonable care to follow instructions and not cause harm to themselves or others.



# REGULATIONS AND GUIDANCE



# EVERYONE WHO GOES TO WORK COMES HOME HEALTHY AND SAFE

