

Health and Safety:

A Good Practice Guide for
Public Service Chief Executives
and Officers

2018

Government Health & Safety Lead

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The purpose of this guide is to provide practical support to Public Service¹ chief executives, and other senior leaders who are deemed to be officers² under the *Health and Safety at Work Act 2015* (the HSWA), with their governance accountabilities and 'due diligence' responsibilities.

It is important for chief executives and other senior leaders to understand the distinction between general day to day management of health and safety that senior public servants perform for the agency as managers, and the governance role that they perform as officers.

EIGHT HEALTH AND SAFETY QUESTIONS FOR PUBLIC SERVICE CHIEF EXECUTIVES AND OFFICERS

1. Am I equipped and supported to undertake my officer duties under the *Health and Safety at Work Act 2015*?
2. How do we, as officers, formalise the governance of health and safety for our agency?
3. What are the critical risks inherent in my agency's work that could kill, most severely injure, or lead to major illness of a worker or someone else?
4. How do I get assurance that my agency's controls for these risks are sufficient and operating effectively to a level that I consider tolerable?
5. How do we ensure that workers are actively involved and engaged in the identification of the critical risks and their controls?
6. Do we have a plan to manage health and safety in my agency that is understood by workers and others?
7. How are key stakeholders, such as the State Services Commissioner and Ministers, engaged with how we are meeting our health and safety duties?
8. How do we publicly account for our health and safety duties?

¹ This guide is written for Public Service departments and has relevance for non-Public Service departments such as Police, NZDF, and Parliamentary Services.

² Officers are defined as being directors, and other types of [specified] governance roles and *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 (s 18, HSWA)*.



LEADERSHIP OF HEALTH AND SAFETY IN THE NEW ZEALAND PUBLIC SERVICE

Public Service agencies have a substantial impact on the health and safety of all New Zealanders.

As significant purchasers, their procurement practices and standards influence the market. As service providers, they have a marked impact on the health and safety of all New Zealanders, particularly some of the most vulnerable. As employers, Public Service agencies operate across a broad range of risks and their workforces are widely deployed nationally and internationally. Public Service agencies strive to be exemplars of health and safety and take a lead role.

When health and safety is prioritised, integrated into all aspects of an agency's operations and culturally imbedded, not only are workers and others safer but the agency performs more effectively overall; operational costs are reduced, worker engagement, attraction and retention increases and the confidence of the public and stakeholders grows.

Health and safety should be considered in its broadest sense to also include wellbeing, cultural safety, physical and personal security. It should consider the total impact of the agency's operations on the health and safety of workers, volunteers, partners, suppliers, the public and recipients of its services.

There are unique aspects of the Public Service in relation to health and safety, notably the absence of independent boards of directors, the role of Ministers, high concentrations of vulnerable clients with complex needs and the statutory powers and obligations of many agencies.

In the Public Service, chief executives and senior leaders act in both a management and governance capacity. As officers they exercise a governance role, taking a due diligence approach to health and safety by setting policy and influencing culture, reviewing performance, holding management to account and ensuring compliance. As managers they plan, organise, resource, and lead health and safety.

WHAT, WHERE, WHY?

Governance	<ul style="list-style-type: none"> > Defines leadership role, sets plans, policies and high ethical standards > Longer-term focus and a helicopter view > Monitors and holds management to account
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HOW?

Management	<ul style="list-style-type: none"> > Executes board approved strategy > Works to the business plan > Has a day-to-day operational focus
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Source: Institute of Directors in New Zealand (Inc) – The Four Pillars of Governance Best Practice, 2017.

WHY SHOULD PUBLIC SERVICE CHIEF EXECUTIVES PERSONALLY LEAD HEALTH AND SAFETY FOR THEIR AGENCIES?

Public Service chief executives, working with their senior leaders, should personally lead health and safety in their agencies for the following reasons.

- > Health and safety can contribute significantly to organisational performance, the engagement of workers, the agency's reputation and its costs of operation.
- > When health and safety is led by chief executives, it is more likely to be successful and better integrated into the agency's wider activities.
- > Chief executives are in the best position to re-prioritise expenditure, explore and authorise fundamental changes to how services are delivered, influence partners and suppliers, and have the broadest understanding of the agency's relationships with key stakeholders.
- > Chief executives (and other officers) have legal responsibilities for health and safety that they, and their agencies, must meet. Officers cannot transfer their duties to others or contract out of them.

GOVERNANCE OF HEALTH AND SAFETY

WHY IS GOVERNANCE OF HEALTH AND SAFETY IMPORTANT?

Governance complements the activities of management by setting organisational purpose and strategy, driving performance, overseeing/monitoring risks, ensuring value, maintaining ethical standards and seeking assurance that laws and regulations are complied with.

As Public Service agencies do not have independent boards, establishing a governance framework for health and safety provides chief executives and other officers with a mechanism to meet their accountabilities and duties.

HOW CAN AGENCIES STRUCTURE GOVERNANCE OF HEALTH AND SAFETY?

Public Service agencies should establish a governance structure for health and safety that is:

- > proportionate to, and suitable for, their risks
- > consistent with how other significant internal functions are governed
- > integrated into its overall risk management and governance arrangements.

There is no set model for this, however it will need to be a discrete process in which all the officers of the agency are involved in order to enable them to meet their personal duty.

Agencies can structure the governance of health and safety by either establishing a separate health and safety governance group that meets regularly, or including health and safety as a separate agenda item at an existing governance meeting.

Where agencies have audit and risk committees with external members, there is value in having the committee assisting the chief executive and other officers by testing and challenging their approach to health and safety. External audit and risk committee members bring experience in governance and are often

officers themselves for other entities. An audit and risk committee, in the context of the Public Service, has an advisory role to the chief executive and so cannot take on the responsibilities of the officers. It is not a substitute for governance of health and safety.

Each agency will need to determine how best to structure health and safety governance in a manner that works effectively for them. The important thing is that a governance process has been established that is regular, effectively assists the officers in performing their duties and is proportionate to the risks. It must also involve the right people, be fully integrated into the wider governance framework and be evidenced through formal agendas, papers and minutes.

The health and safety governance structure should be separate from, but aligned with, the operational management structures for health and safety, as well as the agency's health and safety committees.

A model Terms of Reference for a Health and Safety Governance Group can be found at the back of this guide.

WHO SHOULD BE INVOLVED IN THE GOVERNANCE OF HEALTH AND SAFETY?

At a minimum, the governance group should involve all senior leaders who are considered by the agency to be officers under the HSWA. This will involve the chief executive and a number of senior leaders. Commonly, agencies will simply involve all those senior leaders who normally attend other governance meetings, particularly if there is uncertainty as to who may meet the legal test³.

³ The legal test as to who may be an officer is circumstance specific. Focus should be directed toward agreeing how the chief executive and senior leaders can collaborate to effectively exercise due diligence and ensure that health and safety objectives are achieved.



The Terms of Reference for the governance group should be clear about its role and responsibilities, the extent of its decision-making rights, and the role of any members who are not deemed to be officers.

It is good practice for agencies to involve an external adviser in the governance of health and safety to bring independent and expert knowledge in governance as well as health and safety. As in other governance functions, diversity of opinion is a strength and an independent member can provide additional insight and constructive challenge to the governance function, particularly when it is in its early stages. If the adviser is being engaged for their health and safety expertise, agencies should expect that person to hold relevant qualifications and be registered with the Health and Safety Association of New Zealand.

Worker and union input should be sought so that the governance group hears directly from the front line. In addition, the governance group should ensure that worker feedback and engagement is also reflected in regular reporting. This will enable the governance group to be attuned to the 'weak signals' that sometimes get missed in formal reporting and be alert to 'work as is, rather than as imagined'.

Typically there will also be an escalation process so that issues that cannot be resolved at a National Health and Safety Committee are brought to the attention of the officer group.

GOOD GOVERNANCE OF HEALTH AND SAFETY IS PROACTIVE, INTEGRATED AND PROPORTIONATE

Being **proactive** in the governance of health and safety means actively probing and taking a due diligence approach rather than being passive recipients of information or delegating to the experts. An **integrated** approach treats health and safety as a part of an agency's operations. A **proportionate** approach means that the governance group prioritises its focus on what has, or could have, the most impact on the agency's workers and others, and ensures that the agency's efforts and resources address and match these risks.

However, being proactive does not mean that chief executives and officers have to 'kick the tyres' at an operational level. Rather it means that they should seek assurance that the things they intend to happen are in place and effective. The Institute of Directors sometimes refers to this as 'noses in, fingers out', where the role of a board is to keep out of management/operational matters but asks the difficult questions, and satisfies itself of the veracity of the answers being given, seeking independent contestable advice if necessary.

The role of governance is also to look more strategically at health and safety issues. This includes considering the impact of proposed changes to the delivery of services, looking at issues that have the potential to cause harm, even if this hasn't happened to date and considering the organisational response capability should something go seriously wrong. This includes areas such as emergency plans, business continuity planning and civil defence. The governance group should take a long term view and consider how future work and their workforce will impact on health and safety.

Passive vs proactive approaches to health and safety

A passive approach	A proactive and integrated approach
Receiving health and safety data and metrics.	<ul style="list-style-type: none"> > Query the data to establish patterns and forecast trends. Push for relevant information and information management systems to inform decision-making and to hold management to account. > Consider what information the data isn't providing – for example areas of possible under-reporting such as occupational ill health. > Look for gaps in the information or failure to monitor hazard exposure levels such as noise or chemical exposure. > Look beyond the data to what could happen if the worst scenario occurred. > Listen to the 'weak signals' that may be hidden away in standard reports or be evident through information available to senior leaders through other sources. > Understand the agency's performance relative to a relevant sector or similar type of organisation. > Require a thorough look into sentinel incidents and near-misses to learn from them and find the root causes. > Commission a deeper analytics review of other sources of information that may shine a light on health and safety performance and risk. > Ensure that there is a balance of health, safety and wellbeing metrics, including lead and lag measures. > Commission independent assessments, such as SafePlus, to gain a full view of the agency's health and safety maturity.
Generalised health and safety statements.	<ul style="list-style-type: none"> > Set specific goals and targets for health and safety and require regular reporting on programmes of work. > Set the overall organisational health and safety purpose and influence culture. > Approve 'risk appetites' for specific types of risks. Consider fundamental process redesign where the current risks cannot be justified.
Delegating to in-house advisers.	<ul style="list-style-type: none"> > Independently verify the information provided by in-house advisers. > Actively engage with unions, frontline staff, stakeholders and providers to get their perspectives. Visit the front line regularly to understand 'work as is, rather than as imagined' and to build a realistic picture of the operating environment when considering reports. > Provide officers with regular professional development in governance and health and safety. > Have specific responsibilities and accountabilities for health and safety acknowledged in officers' position descriptions and performance reviews.
Exception report only – relying on lag indicators and known high probability risks.	<ul style="list-style-type: none"> > Proactively determine the significant risks in all aspects of the agency's work, not simply relying on its traditional injury record. > Commission programmes of work particularly designed to address organisational critical risks that have a low probability but could cause serious injury, ill health or a fatality. > Enquire whether the risk controls are set at the right level in the hierarchy of control or if over-reliance is placed on systems and personal protective equipment. > Set lead indicators that measure positive factors.



Considering only the performance of the agency.	<ul style="list-style-type: none"> > Review the health and safety performance of significant contractors and providers and hold them to account. > Use the governance process as a means of ensuring that the agency as the Person Conducting a Business or Undertaking (PCBU) is engaging and consulting with other PCBUs where there are overlapping duties.
Considering health and safety as a separate and standalone function or consideration.	<ul style="list-style-type: none"> > Health and safety is considered across all management and governance functions and is fully integrated into strategy and operations.

Adapted from The Institute of Directors in New Zealand (Inc) – *The Four Pillars of Governance Best Practice, 2017.*

AGREEING THE CRITICAL RISKS

A core function of the health and safety governance group is to determine the most significant health and safety risks arising from the agency’s work. This should involve comprehensive worker engagement, follow the agency’s standard risk methodology and include an assessment of the untreated and treated risks, prioritised by likelihood and consequence.

These significant risks may be **critical risks** (low probability but high impact) or **low impact risks** (occurring frequently but with lower impact). Critical risks are those risks that could lead to severe injury, illness or loss of life and fall into three categories; acute, health related, and catastrophic. Generally agencies should focus initially on no more than five to ten critical risks.

Understanding an agency’s critical risks is an important task for the governance group to lead as it requires a deep understanding of the agency’s context and operations.

Once the significant risks are understood, the health and safety governance group should approve a process for the organisation to use to formally evaluate these risks and determine the right mix of controls. This might involve techniques such as Bowtie analysis or HAZOP for process risks.

The governance group should regularly review its risks and controls to ensure that there is clear accountability for each risk, that the risks remain current and the controls are effective and sufficient.

Regular reporting and independent verification of the risks and controls will provide assurance to officers that proactive action is being taken to address the health and safety risks associated with the agency’s activities.

In understanding the critical risks and controls, the governance group should also consider the impact of variability on the effectiveness of controls.

INFLUENCING CULTURE AND SETTING RISK APPETITE

Governance strongly influences the culture of the agency, and culture in turn, impacts significantly on health and safety. Ultimately, employees, contractors, partners and the public decide how seriously an agency takes health and safety based on its culture and the consistency of senior leaders’ messages and actions – not its published policies, strategies and manuals.

Workers will have the deepest insight into how the culture of an agency enables or restricts them from carrying out their work safely.

It is rarely possible to eliminate all activities that represent risk to workers or others. Given this, controls must be applied to reduce the likelihood and consequences of the risk to an agreed tolerable level, consistent with the agency’s risk appetite.

It should be the organisation’s officers, operating in a governance context, who determine that the residual risk is tolerable, usually because conducting the activity is necessary for the agency’s core purpose.

Such activities and their controls should be regularly reviewed by the governance group to assess whether the controls remain effective, or if the activity itself can be eliminated.

Tasks involving a high level of risk can be contracted out but the risk cannot be transferred to a contractor. The agency remains accountable for the successful delivery of the work. An agency must therefore ensure its procurement and contractor management procedures select competent contractors, provide them with sufficient time and money to perform the task safely and that their performance is actively monitored.

MONITORING PERFORMANCE AND HOLDING TO ACCOUNT

The governance group should determine and agree its requirements for regular and relevant performance reports with management.

Relevant reporting enables the governance group to monitor organisational performance and to hold others to account⁴.

ESTABLISHING AND COMMUNICATING A PLAN FOR HEALTH AND SAFETY

Once the critical organisational risks have been determined and the controls agreed, it is good practice for agencies to establish and communicate a plan for health and safety.

The plan will be tailored to the agency's risks and set out how workers, suppliers and partners can engage with health and safety. Depending on the size of the agency and the significance of the risks being managed, the plan could be a stand-alone document or be incorporated into the agency's wider corporate and operational plans.

The plan should reflect the agency's environment, operations and risks, its overall goals for health and safety, how progress will be measured and reported, the initiatives planned over the period of the document and how individuals can participate in the plan.

To be meaningful, the plan should be developed with worker engagement, integrated with the agency's mission and values and be positioned to enable the agency's wider purpose.

The plan should be developed through the health and safety committee structures and approved by the governance group.

PUBLICLY REPORTING ON HEALTH AND SAFETY

It is good practice for agencies to report publicly and engage with key stakeholders from time to time on their health and safety environment and performance.

The NZX Corporate Governance Code 2017 recommends that listed companies disclose how they manage health and safety risks and report on their health and safety risks, performance and management. The Code recommends that issuers may wish to consider reporting against both lead and lag indicators. Lost time injury frequency rates (LTIFR) and total recorded injury frequency rates (TRIFR) are put forward as options for lag indicators.

Public Service agencies should consider including in their formal accountability documents commentary on their critical health and safety risks, how they ensure worker engagement, what progress has been achieved against one or more of their critical risks, and their governance arrangements, including professional development for their officers. Agencies that track their performance overall, or against a critical risk by using formal measures, should consider including them in their reporting.

REGULARLY REVIEWING RESOURCING AND GOVERNANCE PERFORMANCE TO ENSURE CONTINUOUS IMPROVEMENT

It is good practice for health and safety governance groups to periodically commission an independent review of their governance practices, compliance with legal accountabilities and the adequacy of resources assigned to health and safety. This will ensure continuous improvement in governance practices, compliance with statutory obligations and

⁴ The Business Leaders' Health and Safety Forum has a useful guide on the use of indicators called Monitoring What Matters <http://www.zeroharm.org.nz/our-work/monitoring/>



provide assurance the agency is devoting sufficient resources to the management of health and safety, relative to its risks and size. Such assurance reviews may look at the whole agency or be part of an assurance plan that progressively reviews different aspects of the system.

RECOGNISING AND CELEBRATING GOOD PRACTICE

Most days things go well, and workers and others return home safely because agency systems work effectively to control risks, local managers make the right decisions, and workers are actively engaged in their own health and safety.

Taking the time to understand why things work well and celebrating contributions and achievements are positive ways of reinforcing health and safety. Incorporating health and safety into the agency's wider recognition systems makes this an everyday part of what is done.

INVOLVING OTHERS

WORKERS, HEALTH AND SAFETY REPRESENTATIVES AND COMMITTEES

A cornerstone of the *HSWA* is the engagement, participation and representation of workers in health and safety.

The legislation envisages active and ongoing engagement with workers in areas such as identifying hazards, managing risks, monitoring facilities and changes to work that may affect their health and safety, monitoring conditions of work, providing information and training, participation practices, and appointing health and safety representatives.

Engagement means the active and early sharing of information by the agency with workers, provision of sufficient time for workers to consider the information, express their views, and contribute to decision-making.

Agencies must give full consideration to the views of workers and advise them of the outcome of each engagement. Health and safety representatives and committees are critical to the effective operation of a health and safety system.

UNIONS

Unions have a critical role to play in representing workers in health and safety within agencies and across the Public Service.

Unions bring unique expertise and fresh perspectives to health and safety in the workplace. They are often in the best position to represent worker interests in discussions with agencies. Workers and their representatives should be actively involved in health and safety, participate in joint decision making and be fully represented on health and safety committees and other relevant fora.

The New Zealand Public Service Association has the broadest reach across the sector and, in common with all sector unions, places a strong emphasis on member health and safety.

MINISTERS

Under the *State Sector Act 1988*, chief executives are responsible to their portfolio ministers for the stewardship of their agencies, including sustainability and organisational health.

The general obligations of stewardship and the 'no surprises' principle contained in the Cabinet Manual mean that ministers should be engaged from time to time on an agency's health and safety performance, and promptly if a health and safety matter may become controversial or the subject of public debate.

Ministers may also choose to promote good health and safety practices within their agency through letters of expectation or in statements of intent.

THE STATE SERVICES COMMISSIONER

The role of the State Services Commissioner under the *State Sector Act 1988* includes leadership and oversight of the State Services workforce and personnel matters in the State Services. As such, the State Services Commissioner has a strong interest in health and safety.

The State Services Commissioner and the Deputy State Services Commissioner are officers in relation to the health and safety of Public Service chief executives employed by the State Services Commissioner.



Public Service chief executives should brief the State Services Commissioner generally from time to time on their agency's health and safety performance, and promptly, if a health and safety matter may become controversial or the subject of public debate. There is also value in chief executives sharing examples of good practice or responses to critical risks with the State Service Commission so they can be provided to other agencies.

Public Service chief executives should also brief the State Services Commissioner on any health and safety matter that relates to them personally.

PARTNERS AND SUPPLIERS

Good practice has health and safety considered as a dimension in all aspects of a partner or supplier relationship. It should be designed into the process from procurement, contracting/commissioning through to ongoing monitoring, performance reporting and engagement.

When significant agency risks impact on suppliers and partners, it is important to be clear about roles and responsibilities, the standards that the lead agency expects, and that the cost to the supplier or partner of reaching and maintaining these standards is provided for.

The governance group should have visibility and assurance over critical supplier and partner health and safety performance. Mechanisms such as letters of assurance can provide added levels of confidence when well executed.

USEFUL RESOURCES

There are other valuable sources of advice available through WorkSafe New Zealand, the Institute of Directors in New Zealand (Inc) and the Business Leaders' Health and Safety Forum.

<https://worksafe.govt.nz/managing-health-and-safety/businesses/guidance-for-business-leaders/>

<https://worksafe.govt.nz/managing-health-and-safety/getting-started/>

<https://www.iod.org.nz/healthandsafety>

<http://www.zeroharm.org.nz/leadership/preparing-for-new-law/>

www.zeroharm.org.nz/resources/risk/



MODEL TERMS OF REFERENCE – HEALTH AND SAFETY GOVERNANCE GROUP

Purpose	To provide organisational governance for health and safety and hold management to account for performance.
Key activities	<ul style="list-style-type: none">> Set the tone and influence the culture for the agency's commitment to health and safety.> Actively enquire about the agency's critical health and safety risks and ensure that any residual risks associated with the agency's activities are tolerable after the application of controls.> Ensure that the agency's liability insurance and employee cover is sufficient for the risks associated with the agency and that officers receive appropriate advice as to their personal liabilities.> Approve the agency's health and safety plan and resourcing.> Hold management to account for the delivery of the health and safety plan and benefits realisation.> Seek assurance about the adequacy of the agency's Health and Safety Management System.> Actively review the strategic indicators of agency health and safety performance as well as those of significant service providers.> Gain robust assurance that all legal and regulatory health and safety obligations are being met.> Review learnings from serious events and ensure that learnings are being shared.> Ensure that the agency's health and safety committees and representatives are well trained, resourced and integrated.> Actively enquire about the effectiveness of the agency's joint operations with other agencies as it affects health and safety.> Commission reviews to provide insights and assurance into strategic priorities.> Complete officer professional development activities to meet good practice due diligence requirements.
Format	<ul style="list-style-type: none">> Frequency – the group will meet not less than [] times per year and will seek to hold such meetings in conjunction with site visits.> Chair: Chief executive> Membership: Officers and independent expert advisor(s)> Secretariat []> In attendance: Internal advisers



Key roles	Chair The Chair will ensure the following are carried out. <ul style="list-style-type: none">> The meeting is run according to the agenda and minutes are taken.> Issues for discussion make their way to the Governance Group through the correct channels. Secretariat The Secretariat is responsible for the administrative tasks associated with the Group, ensuring the following. <ul style="list-style-type: none">> The agenda and any required reading material is sent to the group members at least five days before the next meeting.> The confirmed minutes are sent to the group members within five days of the meeting being held.
Quorum	The quorum for this group is no less than [] group members, one of whom must be an independent member.
Review	The group will ensure a regular review of the agency's health and safety management systems, risks, controls, resources and plan to ensure continuous improvement. The group will undertake an annual self-review of its effectiveness, objectives, responsibilities and Terms of Reference. The group will commission an independent review of its effectiveness every two years.



SELF ASSESSMENT: EIGHT HEALTH AND SAFETY QUESTIONS FOR PUBLIC SERVICE CHIEF EXECUTIVES AND OFFICERS

1. Am I equipped and supported to undertake my officer duties under the *Health and Safety at Work Act 2015*?

2. How do we, as officers, formalise the governance of health and safety for our agency?



3. What are the critical risks inherent in my agency's work that could kill, most severely injure, or lead to major illness of a worker or someone else?

4. How do I get assurance that my agency's controls for these risks are sufficient and operating effectively to a level that I consider tolerable?



5. How do we ensure that workers are actively involved and engaged in the identification of the critical risks and their controls?

6. Do we have a plan to manage health and safety in my agency that is understood by workers and others?



7. How are key stakeholders, such as the State Services Commissioner and Ministers, engaged with how we are meeting our health and safety duties?

8. How do we publicly account for our health and safety duties?

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