

The Safe Side



Developments in health and safety from New Zealand and around the world

New Zealand is still lagging significantly behind Australia and the UK when it comes to health and safety performance. This month we cover a sobering report just released by the Business Leaders' Health and Safety Forum on the cost of this "work toll." We also have articles on three recent WorkSafe prosecutions. Two arose after the tragic deaths of members of the public – one while driving on the road and one while skiing. The other prosecution resulted when a worker lost his arm in a horrific incident on a conveyor. Finally, we cover the change in leadership at WorkSafe as the regulator begins a new organisational change process to reduce staff and cut costs.

Company ordered to pay over \$350,000 after worker loses arm

During an early morning in November 2021, a worker was cleaning a conveyor at a concrete manufacturer in Manawatū. He reached in to retrieve a dropped tool, and his right arm was grabbed by the rollers on the conveyor. As he was pulled further into the machine, his arm was amputated. The victim was alone at the time and had to leave the area to look for help. Surgeons could not reattach his arm and he remains off work.

WorkSafe's investigation found that the emergency stop switch for the conveyor was completely disconnected and non-functional, and the conveyor's off switch was in the next warehouse. There was no standard operating

procedure for cleaning the machine, the risk assessment was insufficient, and workers were not trained in safe ways to clean the conveyor.

The company was subsequently charged under the Health and Safety at Work Act and [sentenced](#) to a fine of \$297,000 in the Palmerston North District Court earlier this month. It was also ordered to pay reparations of \$60,000. WorkSafe commented after sentencing that it is critical to think about standard operating procedures for cleaning and maintenance as well as when the machine is in use. Guidance on [safeguarding conveyors](#) and [lockouts](#) for machinery can be found on the WorkSafe website.

Sobering new report into New Zealand's health and safety performance published



Cathedral made safe.

In 2022 alone, New Zealand's work toll cost the economy almost \$4.4 billion. The country's fatality rates are twice those of Australia and are sitting where the United Kingdom (UK) was in the 1980s. These sobering observations are made in a recent report on workplace harm from the Business Leaders' Health and Safety Forum and Sense Partners.

The inaugural '[State of a Thriving Nation](#)' report estimates that the total cost of fatalities, serious injuries and health effects from health and safety work harm totalled \$4,391m in 2022. The report calculated the cost of deaths based on an average of 73 fatalities per year using the \$12.5m statistical value of life. This equates to \$913m. Added to this is the total cost of serious injury claims at \$1,479m per

year. WorkSafe estimated health costs to be at least \$2,000m a year.

By way of comparison, if Australia's fatality and serious injury rate were replicated in New Zealand, our estimated cost of harm would be reduced by \$1b a year, from \$4.4b to \$3.4b.

The report also found that the persistent gap in health and safety performance between New Zealand, Australia and the UK was not easily explained by industry or occupation differences. It acknowledged further work was needed, but identified several factors that provide potential insights about the gap. These were that the UK and Australian regulatory contexts are widely considered to be more comprehensive in their expectations, and firmer in their assessment and enforcement approaches. In addition, neither Australia nor the UK have "no fault" worker compensation schemes, meaning there is scope for private litigation for personal injury; and that both the UK and Australia have more active trade unions and organised labour movements. It also said that both Australia and the UK are bigger investors in new technologies and capital plant and more mature in government procurement practices and client leadership.

There is some good news amongst the bad. The report found that worker injury rates, as reported by ACC approved claims, have been trending lower suggesting that there is some improvement in the reported rates of injuries over time.

South Island ski company sentenced following the death of a skier in 2019

An inadequate risk assessment contributed to the death of an experienced skier at Coronet Peak and resulted in the company that ran the ski field receiving a fine of \$440,000 at a [sentencing](#) in Queenstown this month. The company was also ordered to pay reparations of \$130,000.

The victim died of blunt force trauma after colliding with a wooden fence post at the bottom of Sugar's Run in September 2019. She was a very accomplished skier who could tackle various trails and runs without any difficulty.

In his decision, the Judge ruled the company had been put on notice of serious safety issues concerning the fence, but had not conducted an adequate risk assessment for the fence at any stage since 2014. WorkSafe's investigation uncovered a 2014 document from a ski patrol staffer. It referred to "28 fence posts, metal deer fencing and

strainers in the area being very likely to be skied into at high speed. Several serious harm injuries have occurred already. Many near misses." The staffer stated the risk score as 10 out of 10.

The sentencing highlights that identifying a risk alone is not sufficient. Adequate systems and controls must also be put in place to eliminate the risk, or if that is not reasonably practicable, to minimise the risk on an ongoing basis.

After sentencing, WorkSafe said that operators have a duty of care to not only their employees, but also members of public who are paying customers, and that businesses and organisations must not lose sight of that. You can read more about protecting customers in last month's issue of [The Safe Side](#).

Prosecutions follow road crash involving run away trailer

The failure of workers to ensure that the locking handle on a trailer was engaged, and the safety chain connected, has led to the [prosecution](#) of two related companies in the South Island. A fine of \$270,000 was imposed and reparations of \$130,000 ordered after convictions under the Health and Safety at Work Act (the Act).

The prosecution arose after a 52-year-old man's van was struck when an A-frame trailer detached from a work vehicle in Canterbury in October 2020. The father of two died in the crash.

Both the company which owned the trailer, and its operations arm, were prosecuted by WorkSafe.

WorkSafe found that the companies did not have systems to ensure vehicles were kept in good working order, or systems to ensure drivers visually checked their vehicles before use. In addition, staff had inadequate information,

training, instruction, supervision, and experience to safely use the company vehicles and trailers.

WorkSafe said that it was not enough to just have workers sign a vehicle policy; but that companies also had to ensure drivers were competent to safely use a vehicle, especially one that is being towed.

This conviction follows another in 2022 for inadequate management of trailer safety. In that case, a nine-year-old Northland girl died when a trailer's safety chain failed, disconnecting it from the truck towing it, and sending it into the path of an oncoming car. The WorkSafe [investigation](#) found the tow ball and coupling were badly worn down. In [The Safe Side](#) article about this prosecution, we noted that any worker driving on the road while working is almost certainly subject to health and safety legislation, as is the company that the worker works for.

WorkSafe appoints new Chief Executive

The WorkSafe New Zealand Board has appointed a new [Chief Executive](#) following the [resignation](#) of Phil Parkes. Steve Haszard started with WorkSafe on October 9 for a term of up to 18 months.

The Board Chair, Jennifer Kerr, said that Mr Haszard "...brings strengths in regulatory practice, organisational change, and strategy development and execution. His leadership experience will provide clarity for WorkSafe's staff and system partners throughout this period of change."

Concurrently, WorkSafe has begun an [organisational change process](#) that includes a number of roles being

disestablished and new roles being established. While the proposal is subject to change, WorkSafe says the overall roles within WorkSafe may reduce by 100-120.

There is no proposed impact to frontline inspectors and investigators. WorkSafe said its intention was to grow inspector numbers over the coming years, with more inspectors planned for later this year. The number of [WorkSafe inspectors](#) has fallen from 8.4 per 100,000 workers in 2013, (the stated WorkSafe NZ target), to 6.3 in 2023.

More background on WorkSafe's current challenges can be found in this [article](#) by Radio New Zealand.

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